CHAPTER 5

Circuit Courts

ARTICLE 1

General Provisions

**SECTION 14‑5‑10.** Circuit courts are courts of record; public inspection of records.

The circuit courts herein established shall be courts of record, and the books of record thereof shall, at all times, be subject to the inspection of any person interested therein.

HISTORY: 1962 Code Section 15‑201; 1952 Code Section 15‑201; 1942 Code Section 73; 1932 Code Section 73; Civ. P. ‘22 Section 70; Civ. P. ‘12 Section 37; Civ. P. ‘02 Section 32; 1870 (14) Section 32.

Library References

Courts 153.

Westlaw Topic No. 106.

Attorney General’s Opinions

Supreme Court decision concludes that each state may enact legislation authorizing disclosure of “rap sheets” to public; SLED’s regulation as to particular data to be disseminated is consistent with Court’s ruling and present South Carolina law; Supreme Court has concluded that “rap sheets” may continue to be treated as in the past by SLED, in accordance with SLED’s regulation; General Assembly could, consistent with Supreme Court ruling, specifically authorize by legislation disclosure of “rap sheets” to public. 1990 Op.Atty.Gen. No. 90‑15 (January 24, 1990) 1990 WL 482403.

United States Supreme Court in Reporters Committee case construed federal law relative to criminal history records maintained by Federal Bureau of Investigation. 1990 Op.Atty.Gen. No. 90‑15 (January 24, 1990) 1990 WL 482403.

Documents at original sources, such as arrest warrants, would not be affected by Supreme Court’s ruling and would be available to public. 1990 Op.Atty.Gen. No. 90‑15 (January 24, 1990) 1990 WL 482403.

Decision to disclose particular record or document in given instance remains with custodian of document or record; such view constitutes a discussion of the ruling by the United States Supreme Court in Reporters Committee case and is not intended to usurp authority of custodian to determine whether disclosure is appropriate in particular instance. 1990 Op.Atty.Gen. No. 90‑15 (January 24, 1990) 1990 WL 482403.

County governments are under a duty to provide facilities and support personnel for the Circuit Courts. 1974‑75 Op.Atty.Gen. No 4194, p 243 (November 21, 1975) 1975 WL 22491.

**SECTION 14‑5‑20.** Seals of courts of common pleas.

The courts of common pleas shall, at the expense of the State, have a seal for each county of an impression similar to that of the court of common pleas in Charleston County and uniform with that seal except that each seal shall in the legend have the name of the court in which it is used. Such seals shall always be affixed to such proceedings of the respective courts as may require the same.

HISTORY: 1962 Code Section 15‑202; 1952 Code Section 15‑202; 1942 Code Section 337; 1932 Code Section 337; Civ. P. ‘22 Section 293; Civ. C. ‘12 Section 3926; Civ. C. ‘02 Section 2823; G. S. 2170; R. S. 2299; 1792 V. 211.

Library References

Courts 153.

Westlaw Topic No. 106.

ARTICLE 3

Judges and Special Judges

**SECTION 14‑5‑110.** Qualification by circuit judge.

The circuit judges of this State, upon their election, shall qualify by taking the oath required by the Constitution of this State before a justice of the Supreme Court, the President of the Senate, the Speaker or Speaker Emeritus of the House of Representatives, a circuit judge, a clerk of the Supreme Court, a clerk of the court of common pleas or a probate judge of the county, and shall forthwith enter upon their duties. Such oath must be filed in the office of the Secretary of State. Terms of office for all circuit judges elected after January 1, 1977, shall commence as of July first of the year in which they are elected.

HISTORY: 1962 Code Section 15‑211; 1952 Code Section 15‑211; 1942 Code Section 72; 1932 Code Section 72; Civ. P. ‘22 Section 69; Civ. P. ‘12 Section 36; Civ. P. ‘02 Section 31; 1870 (14) Section 31; 1880 (17) 502; 1898 (22) 688; 1961 (52) 275; 1977 Act No. 62.

CROSS REFERENCES

Constitutional provision that no person is to hold two offices of honor or profit at the same time, see SC Const. Art. XVII, Section 1A.

Constitutional rule regarding property qualification for an election to or the holding of any office, see SC Const. Art. XVII, Section 1B.

Qualifications of judges, generally, see SC Const. Art. V, Section 15.

Library References

Judges 5.

Westlaw Topic No. 227.

C.J.S. Judges Sections 34 to 49.

LAW REVIEW AND JOURNAL COMMENTARIES

Judges ‑ Disqualification to Act Because of Stock Interest. 22 S.C. L. Rev. 261.

**SECTION 14‑5‑120.** Salaries of judges.

The circuit judges shall each receive such annual salary as may be provided by the General Assembly.

HISTORY: 1962 Code Section 15‑212; 1952 Code Section 15‑212; 1942 Code Section 41; 1932 Code Section 41; Civ. P. ‘22 Section 39; Civ. C. ‘12 Section 3837; Civ. C. ‘02 Section 2740; G. S. 2420; R. S. 2351; 1893 (21) 417; 1919 (31) 101; 1929 (36) 7; 1935 (39) 88; 1948 (45) 1716; 1951 (47) 546, 710; 1963 (53) 358; 1964 (53) 1918; 1966 (54) 2424; 1970 (56) 2085.

CROSS REFERENCES

Constitutional provisions as to compensation of judges, see SC Const. Art. V, Section 16.

Library References

Judges 22.

Westlaw Topic No. 227.

C.J.S. Judges Sections 189 to 214, 347.

NOTES OF DECISIONS

In general 1

1. In general

Annual appropriation bill cannot reduce circuit judge’s salary theretofore fixed by continuing statute in effect at the time of his election. Grimball v. Beattie (S.C. 1934) 174 S.C. 422, 177 S.E. 668. Judges 22(7)

Appropriation for payment of judge’s salary may be made by permanent continuing statute. Grimball v. Beattie (S.C. 1934) 174 S.C. 422, 177 S.E. 668. States 131

Comptroller General should not issue warrant for amount claimed by circuit judge as salary, in absence of appropriation by law for payment thereof. Grimball v. Beattie (S.C. 1934) 174 S.C. 422, 177 S.E. 668. States 130

**SECTION 14‑5‑130.** Judges shall not absent themselves from State without permission.

No circuit judge shall absent himself from this State without leave first granted in writing by the Chief Justice or presiding associate justice.

HISTORY: 1962 Code Section 15‑213; 1952 Code Section 15‑213; 1942 Code Section 40; 1932 Code Section 40; Civ. P. ‘22 Section 38; Civ. C. ‘12 Section 3836; Civ. C. ‘02 Section 2739; G. S. 2119; R. S. 2250; 1877 (16) 229.

Library References

Judges 21.

Westlaw Topic No. 227.

C.J.S. Judges Sections 87 to 94, 97 to 103.

**SECTION 14‑5‑140.** Neglect of duty as to holding terms, disobeying order of assignment, and other violations; proceedings.

If any circuit judge shall fail or neglect to hold a term of any court of general sessions or common pleas in any circuit to which he may be assigned until the business of such court shall have been disposed of or the end of the term arrives, shall fail to recognize and obey the order of assignment of the Chief Justice or presiding associate justice or shall violate any provisions of this chapter, the Attorney General shall, upon any reliable information of the same, by official communication bring such violations of this chapter to the notice of the General Assembly at its first session and such circuit judge shall be held amenable to proceedings for neglect of duty, as provided in the Constitution.

HISTORY: 1962 Code Section 15‑214; 1952 Code Section 15‑214; 1942 Code Section 42; 1932 Code Section 42; Civ. P. ‘22 Section 40; Civ. C. ‘12 Section 3838; Civ. C. ‘02 Section 2741; G. S. 2124; R. S. 2255; 1877 (16) 229.

CROSS REFERENCES

Power to impeach state judges, see SC Const. Art. XV, Section 1.

Removal of officers for neglect of duty, see SC Const. Art. VI, Section 9.

Library References

Judges 38.

Westlaw Topic No. 227.

C.J.S. Judges Section 223.

**SECTION 14‑5‑150.** Judges shall notify Chief Justice of inability or disability to hold court.

Each circuit judge, when disabled by sickness or other cause to hold any court to which he may be assigned, shall give or cause to be given prompt notice of such inability or disability to the Chief Justice so that his place may be temporarily filled and the court held according to law.

HISTORY: 1962 Code Section 15‑215; 1952 Code Section 15‑215; 1942 Code Section 43; 1932 Code Section 43; Civ. P. ‘22 Section 41; Civ. C. ‘12 Section 3839; Civ. C. ‘02 Section 2742; R. S. 2256; 1892 (21) 4.

Library References

Judges 24.

Westlaw Topic No. 227.

C.J.S. Judges Sections 87 to 89, 151 to 160.

NOTES OF DECISIONS

In general 1

1. In general

Under Const. art. 5, Sections 6, 16, Civ.Code 1912, Sections 1318, 3839, 3840 (See Code 1942, Sections 43, 44, 3595), and Code Civ.Proc.1912, Sections 31, 33, 35 (See Code 1942, Sections 67, 69, 71), held that circuit court judge cannot take recess beyond time fixed for holding of court in one county to sit in another and if that is attempted, rising of court in first county must be treated as of last day fixed by statute for holding of court therein Haughton v. Order of United Commercial Travelers of America (S.C. 1917) 108 S.C. 73, 93 S.E. 393.

**SECTION 14‑5‑160.** Assignment of disengaged circuit judge to fill vacancy.

Whenever any circuit judge, pending his assignment to hold the courts of any circuit, shall die, resign, be disabled by illness or be excused for any other reason considered sufficient in the opinion of the Chief Justice of the Supreme Court or in case of a vacancy in the office of circuit judge of any circuit or if a special session of the court of general sessions or common pleas be ordered as provided for in Sections 14‑5‑910 to 14‑5‑950, the Chief Justice of the Supreme Court may assign any other disengaged circuit judge to hold the courts of any such circuit, to fill any appointment made necessary by such vacancy or to hold any special session of the circuit court that may be ordered by the Chief Justice.

HISTORY: 1962 Code Section 15‑216; 1952 Code Section 15‑216; 1942 Code Section 44; 1932 Code Section 44; Civ. P. ‘22 Section 42; Civ. C. ‘12 Section 3840; Civ. C. ‘02 Section 2743; G. S. 2123; R. S. 2254; 1896 (22) 11; 1925 (34) 5; 1929 (36) 258; 1931 (37) 257; 1935 (39) 55.

CROSS REFERENCES

Constitutional provision for rotation of judges, see SC Const. Art. V, Section 14.

Emergency interim successors for judges, see Section 1‑9‑70.

Powers of judge holding court in circuit other than residence, see Section 14‑5‑380.

Special sessions of circuit courts, see Sections 14‑5‑910 to 14‑5‑950.

Library References

Judges 8.

Westlaw Topic No. 227.

C.J.S. Judges Sections 67 to 86.

NOTES OF DECISIONS

In general 1

Constitutional issues 2

Construction and application 3

1. In general

The power conferred is not an absolute power but is controlled by considerations which safeguard the rights and interests of those whose rights and interests will be determined by such tribunal. State v. Gossett (S.C. 1921) 117 S.C. 76, 108 S.E. 290, 16 A.L.R. 1299.

And it is a discretionary power to be exercised as a judicial function. State v. Gossett (S.C. 1921) 117 S.C. 76, 108 S.E. 290, 16 A.L.R. 1299.

Under Const. art. 5, Sections 6, 16, Civ.Code 1912, Sections 1318, 3839, 3840 (See Code 1942, Sections 43, 44, 3595), and Code Civ.Proc.1912, Sections 31, 33, 35 (See Code 1942, Sections 67, 69, 71), held that circuit court judge cannot take recess beyond time fixed for holding of court in one county to sit in another and if that is attempted, rising of court in first county must be treated as of last day fixed by statute for holding of court therein. Haughton v. Order of United Commercial Travelers of America (S.C. 1917) 108 S.C. 73, 93 S.E. 393.

Origin of section. Taylor v. Skrine (S.C. 1815).

2. Constitutional issues

Section is constitutional. The power conferred by Code 1962 Sections 15‑301 to 15‑305 and this section [Code 1962 Section 15‑216] is easily sustainable under the provisions of SC Const, Art 5, Section 6 (now Art 5 Section 15). State v. Gossett (S.C. 1921) 117 S.C. 76, 108 S.E. 290, 16 A.L.R. 1299.

3. Construction and application

The provisions of this section [Code 1962 Section 15‑216] do not supersede the provisions of Code 1962 Section 15‑235, relating to circuit court’s jurisdiction in adjoining circuit when no resident or special judge is on circuit. Winn v. Harby (S.C. 1932) 166 S.C. 99, 164 S.E. 434, reversed 52 S.Ct. 520, 286 U.S. 318, 76 L.Ed. 1127.

**SECTION 14‑5‑170.** Appointment of special judge to fill vacancy.

In the event there be no other disengaged circuit judge available to hold such courts, then the Governor shall immediately commission as special judge some person learned in the law, as shall be recommended by the Supreme Court or by the Chief Justice thereof if the Supreme Court be not in session, to hold the courts of any such circuit or to hold any special session thereof which may be ordered by the Chief Justice as aforesaid. Whenever a special judge shall be appointed to hold any court he shall have and exercise all the powers and duties that a regular judge would have if presiding.

HISTORY: 1962 Code Section 15‑217; 1952 Code Section 15‑217; 1942 Code Section 44; 1932 Code Section 44; Civ. P. ‘22 Section 42; Civ. C. ‘12 Section 3840; Civ. C. ‘02 Section 2743; G. S. 2123; R. S. 2254; 1896 (22) 11; 1925 (34) 5; 1929 (36) 258; 1931 (37) 257; 1935 (39) 55.

CROSS REFERENCES

General construction of section, see notes to Section 14‑5‑160.

Library References

Judges 15.

Westlaw Topic No. 227.

C.J.S. Judges Sections 349 to 353.

NOTES OF DECISIONS

In general 1

1. In general

Power to appoint special judge for a given county questioned. In view of the provisions of this section [Code 1962 Section 15‑217], it is questionable whether the Governor has the power to appoint a special judge to hold the regular term of the court for a given county. It appears that in such case the appointment can be made only for the courts of the circuit, and not for the court of a particular county. Evans v. Town of Edgefield (S.C. 1925) 132 S.C. 380, 129 S.E. 207.

Appointment of special judge is not essentially an executive function. The appointment of a special judge to preside over the special or regular court is not essentially and intrinsically an executive function within the classification of legislative, executive, and judicial powers under SC Const, Art 1, Section 14 (now Art 1 Section 8), but may be regulated by statute. State v. Davis (S.C. 1911) 88 S.C. 204, 70 S.E. 417.

And without recommendation of Supreme Court is void. The Governor has no power to commission a special judge not recommended by the Supreme Court, or Chief Justice if the Supreme Court be not in session. State v. Davis (S.C. 1911) 88 S.C. 204, 70 S.E. 417.

Confining of special term does not render order nugatory. Because the special term of the court of general sessions, ordered by the Governor under this section [Code 1962 Section 15‑217] and the following section, was needlessly confined to the disposition of all cases on the criminal docket, such fact did not render the order nugatory. State v. Gallman (S.C. 1908) 79 S.C. 229, 60 S.E. 682. Courts 64(5)

**SECTION 14‑5‑180.** Assignment of disengaged circuit judge or appointment of special judge when docket is overcrowded.

Whenever the time fixed for holding any of the courts of general sessions or common pleas of this State shall be found not sufficient for the trial of all cases before the court, a like assignment of a disengaged circuit judge or commission of a special judge may be had to hold the court to which the judge then holding such overcrowded court may have been in due course next assigned and the term of such overcrowded court shall proceed until the cases before it are disposed of.

HISTORY: 1962 Code Section 15‑218; 1952 Code Section 15‑218; 1942 Code Section 44; 1932 Code Section 44; Civ. P. ‘22 Section 42; Civ. C. ‘12 Section 3840; Civ. C. ‘02 Section 2743; G. S. 2123; R. S. 2254; 1896 (22) 11; 1925 (34) 5; 1929 (36) 258; 1931 (37) 257; 1935 (39) 55.

Library References

Judges 15.

Westlaw Topic No. 227.

C.J.S. Judges Sections 349 to 353.

NOTES OF DECISIONS

In general 1

1. In general

Holding over court for more than a week beyond the date fixed for its adjournment was not error in view of this section [Code 1962 Section 15‑218]. State v Bigham, 133 SC 491, 131 SE 603 (1924). State v Gregory, 127 SC 87, 120 SE 499 (1922).

**SECTION 14‑5‑190.** Assignment or appointment when Chief Justice is not available.

Should there be a vacancy in the office of Chief Justice of the Supreme Court or in case of his absence from the State or of his illness or incapacity from whatever cause, then the power and authority vested and the duties imposed upon the Chief Justice by the provisions of Sections 14‑5‑160 to 14‑5‑180 shall be exercised and discharged by the senior associate justice of the Supreme Court in point of service who is at the time within the State and is not ill or otherwise incapacitated and his acts in exercising such powers and discharging such duties shall be as effectual as though performed by the Chief Justice of the Supreme Court.

HISTORY: 1962 Code Section 15‑219; 1952 Code Section 15‑219; 1942 Code Section 44; 1932 Code Section 44; Civ. P. ‘22 Section 42; Civ. C. ‘12 Section 3840; Civ. C. ‘02 Section 2743; G. S. 2123; R. S. 2254; 1896 (22) 11; 1925 (34) 5; 1929 (36) 258; 1931 (37) 257; 1935 (39) 55.

Library References

Judges 16.

Westlaw Topic No. 227.

C.J.S. Judges Sections 345 to 346, 349 to 350, 354 to 363.

**SECTION 14‑5‑200.** Compensation of special judge.

The special judge shall be allowed for his services per diem of one hundred ($100.00) dollars and his necessary expenses and the same per diem for not exceeding five days for the preparation of his decrees.

HISTORY: 1962 Code Section 15‑220; 1952 Code Section 15‑220; 1942 Code Section 47; 1932 Code Section 47; Civ. P. ‘22 Section 45; Civ. C. ‘12 Section 3844; Civ. C. ‘02 Section 2747; 1900 (23) 329; 1976 Act No. 709 Part II Section 8.

Library References

Judges 22.

Westlaw Topic No. 227.

C.J.S. Judges Sections 189 to 214, 347.

**SECTION 14‑5‑210.** Clerk shall adjourn court in absence or indisposition of judge.

Whenever it shall so happen that any circuit court in this State cannot be held at the time appointed, in consequence of the absence or indisposition of the judge, the clerk of such court or his deputy shall open and adjourn the court from day to day until the court shall meet or until he may receive due notice that the judge will not be present, when he shall adjourn the court until the first day of the succeeding term.

HISTORY: 1962 Code Section 15‑220.1; 1952 Code Section 15‑220.1; 1942 Code Section 3595; 1932 Code Section 3595; Civ. C. ‘22 Section 2139; Civ. C. ‘12 Section 1318; Civ. C. ‘02 Section 920; G. S. 741; R. S. 792; 1839 (11) 106.

Library References

Courts 76.

Westlaw Topic No. 106.

C.J.S. Courts Sections 164 to 165.

**SECTION 14‑5‑220.** Clerk shall notify authorities and jurors of special terms.

When notified of the appointment of a special judge to hold a special term, the clerk of the court shall notify the proper authorities and the grand jury shall be summoned to attend, if it be a court of sessions, and a petit jury shall be drawn and summoned, if jury cases are to be tried, in the regular manner, for the purpose of such court and as the same may be necessary. The clerk shall notify the special judge of the time fixed for holding the special term of court.

HISTORY: 1962 Code Section 15‑221; 1952 Code Section 15‑221; 1942 Code Section 45; 1932 Code Section 45; Civ. P. ‘22 Section 43; Civ. C. ‘12 Section 3842; Civ. C. ‘02 Section 2745; 1900 (23) 329.

CROSS REFERENCES

The appointment of special judges, see Section 14‑5‑170.

Library References

Courts 75.

Westlaw Topic No. 106.

C.J.S. Courts Sections 164 to 165.

NOTES OF DECISIONS

In general 1

1. In general

Notification of proper authorities by clerk is presumed. It must be presumed in absence of anything to the contrary on the holding of a special term presided over by a special judge that the proper authorities were notified by the clerk and everything was conducted in a regular manner. State v. Davis (S.C. 1911) 88 S.C. 204, 70 S.E. 417.

That the Governor, in ordering a special term of the court of general sessions, pursuant to his authority under Civ.Code 1902, Section 2744 (Unconst.), Section 2745 (See Code 1942, Section 45), needlessly confined the same to the disposition of all the cases on the criminal docket, did not render the order nugatory. State v. Gallman (S.C. 1908) 79 S.C. 229, 60 S.E. 682.

ARTICLE 5

Powers and Jurisdiction of Courts and Judges

**SECTION 14‑5‑310.** Rules of court.

The circuit courts may make and establish all necessary rules for the orderly conducting of business in said courts, provided such rules are not repugnant to the laws of the State or the rules prescribed by the justices of the Supreme Court and circuit judges.

HISTORY: 1962 Code Section 15‑231; 1952 Code Section 15‑231; 1942 Code Section 34; 1932 Code Section 34; Civ. P. ‘22 Section 33; Civ. C. ‘12 Section 3831; Civ. C. ‘02 Section 2734; G. S. 2113; R. S. 2245; 1868 (14) 16.

CROSS REFERENCES

Powers and jurisdiction of the circuit courts and judges over adoptions, see Section 63‑9‑40.

Production of documents under South Carolina Rules of Civil Procedure, see Rule 34, SCRCP.

Requests for admission under South Carolina Rules of Civil Procedure, see Rule 36, SCRCP.

Library References

Courts 153.

Westlaw Topic No. 106.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Brief of Amicus Curiae Section 3, in State Trial Court.

NOTES OF DECISIONS

In general 1

1. In general

Rules of circuit courts have force of law. Rules of circuit courts made under this section [Code 1962 Section 15‑231], which are not repugnant to or in conflict with law, have all the force of law and must be complied with. State v. Atterberry (S.C. 1924) 129 S.C. 464, 124 S.E. 648. Courts 85(1)

And it is doubtful whether they may be suspended by Supreme Court. State v. Atterberry (S.C. 1924) 129 S.C. 464, 124 S.E. 648.

**SECTION 14‑5‑320.** Contempt of court.

The circuit court may punish by fine or imprisonment, at the discretion of the court, all contempts of authority in any cause or hearing before the same.

HISTORY: 1962 Code Section 15‑231.1; 1952 Code Section 15‑231.1; 1942 Code Section 34; 1932 Code Section 34; Civ. P. ‘22 Section 33; Civ. C. ‘12 Section 3831; Civ. C. ‘02 Section 2734; G. S. 2113; R. S. 2245; 1868 (14) 136.

CROSS REFERENCES

Punishment for disobeying order in proceedings supplementary to execution, see Section 15‑39‑490.

Punishment for violation of injunction abating nuisance, see Section 15‑43‑70.

Library References

Courts 153.

Westlaw Topic No. 106.

NOTES OF DECISIONS

In general 1

Constitutional issues 2

Construction with other laws 3

Review 4

1. In general

For purposes of a finding of direct contempt, the “presence of the court” extends beyond the mere physical presence of the judge or the courtroom to encompass all elements of the system; a person may be found guilty of direct contempt if his or her conduct interferes with judicial proceedings, exhibits disrespect for the court, or hampers the parties or witnesses. State v. Jolly (S.C.App. 2013) 405 S.C. 622, 749 S.E.2d 114. Contempt 2

Direct contempt involves contemptuous conduct in the presence of the court. State v. Jolly (S.C.App. 2013) 405 S.C. 622, 749 S.E.2d 114. Contempt 2

It is within the trial court’s discretion to punish by fine or imprisonment all contempts of authority before the court. Miller v. Miller (S.C.App. 2007) 375 S.C. 443, 652 S.E.2d 754. Contempt 70; Contempt 74

There was sufficient evidence to support judge’s finding of contempt for defendant’s making obscene gesture to his trial counsel before leaving courtroom at end of post‑conviction relief (PCR) hearing; regardless of whether defendant’s hearing had concluded, defendant failed to show proper decorum in courtroom and exhibited disrespect for court so inherent that no warning of possible contempt was necessary, it was irrelevant that obscene gesture was not directed at judge, the gesture interrupted courtroom proceedings and necessitated hearing to address his actions, and defendant’s post‑gesture apology did not change fact that he failed to act with proper decorum in presence of the judge. Rhoad v. State (S.C.App. 2007) 372 S.C. 100, 641 S.E.2d 35, rehearing denied, certiorari denied. Contempt 7

Former client’s introduction of a fraudulent document into expert’s deposition in legal malpractice action constituted an introduction of the document into the presence of the court, warranting a citation for direct contempt. Brandt v. Gooding (S.C. 2006) 368 S.C. 618, 630 S.E.2d 259, rehearing denied, habeas corpus granted 664 F.Supp.2d 626, affirmed 636 F.3d 124. Contempt 13

Contempt of court is a specific criminal offense, and a party charged therewith has the same inalienable right to be heard in his defense as he would against a charge of murder or any other crime. State v. Weinberg (S.C. 1956) 229 S.C. 286, 92 S.E.2d 842. Contempt 61(1)

Limits of power to punish for contempt. The power to punish for contempt is limited to the maintenance of order and decorum in court proceedings, to the enforcement of its writs and orders, and to the punishment of acts done out of court tending to obstruct the due administration of justice. State v. Weinberg (S.C. 1956) 229 S.C. 286, 92 S.E.2d 842. Contempt 30

One is guilty of contempt whose conduct is such as tends to bring the authority and administration of the law into disrespect or disregard, or to interfere with or prejudice parties litigant or their witnesses during the litigations. State v. Weinberg (S.C. 1956) 229 S.C. 286, 92 S.E.2d 842. Contempt 2

One interfering with or attempting to interfere with the proper execution of legal process, or with an attempt, either on the bench or off, to influence the court in its decision of a matter pending before it, may be held guilty of contempt. State v. Weinberg (S.C. 1956) 229 S.C. 286, 92 S.E.2d 842. Contempt 2; Contempt 17

Notwithstanding failure of design. Where there is deliberate purpose to corrupt administration of justice, accompanied by definite overt act on the part of the contemnor designed to carry such purpose into effect, notwithstanding the failure of design, one is guilty of contempt. State v. Weinberg (S.C. 1956) 229 S.C. 286, 92 S.E.2d 842. Contempt 2

A construction contempt of a criminal nature is a contempt committed not in the actual presence of or so near the court as to interrupt its proceedings, but which nevertheless tends to impede or prevent the due administration of justice. State v. Weinberg (S.C. 1956) 229 S.C. 286, 92 S.E.2d 842. Contempt 2

Anything done or said, in or out of the presence of the court, which impedes or obstructs it in the decision of a pending cause, or in the execution, by authorized means, of its judgments, may be punished as a contempt. State v. Weinberg (S.C. 1956) 229 S.C. 286, 92 S.E.2d 842.

Attempts to bribe or improperly influence jurors. All willful attempts, of whatever nature, seeking to improperly influence jurors in the impartial discharge of their duties, whether such be conversations or discussions, or attempts to bribe, constitute contempts. State v. Weinberg (S.C. 1956) 229 S.C. 286, 92 S.E.2d 842.

But the alternative lies with the sentencing judge. It is clear from the wording of this section [Code 1962 Section 15‑231.1], when given its ordinary meaning, that the court might have: First, sentenced the contemnor to pay a fine; second, sentenced him to imprisonment; and, third, sentenced him to pay a fine or, in the alternative, serve a term of imprisonment. Any other construction would permit the defendant to choose the fine or imprisonment, whereas the alternative lies with the sentencing judge and not the defendant. State v. Weinberg (S.C. 1956) 229 S.C. 286, 92 S.E.2d 842.

Defendant may not be sentenced to both fine and imprisonment. In a contempt proceeding, a sentence to imprisonment in the county jail for a period of sixty days and to pay a fine of $200 went beyond this section [Code 1962 Section 15‑231.1], and was excessive and unwarranted by law in that the sentence was not in the alternative ‑ that is, fine or imprisonment. Greenwood County v. Shay (S.C. 1943) 202 S.C. 16, 23 S.E.2d 825.

Sentence of 90 days to county jail of juror for contempt in violating court’s instruction by discussing case with others during court recess held justified. State v. Babb (S.C. 1931) 161 S.C. 305, 159 S.E. 633.

2. Constitutional issues

Finding that defendant was in criminal contempt did not raise double jeopardy bar to subsequent prosecution for obtaining property under false pretenses, where elements of criminal contempt and obtaining property under false pretenses were distinctly different and each required proof of fact the other did not; interference with judicial proceedings was not element of obtaining property under false pretenses, and obtaining from another person by false pretenses real property with intent to cheat and defraud person of that property was not element of contempt. State v. Jolly (S.C.App. 2013) 405 S.C. 622, 749 S.E.2d 114. Double Jeopardy 139.1

3. Construction with other laws

Section not applicable to violation of restraining order issued under code 1962 Section 4‑405. Sentence for violating a restraining order issued under code 1962 Section 4‑405 is properly imposed under code 1962 Section 4‑406; this section [code 1962 Section 15‑231.1], which is the general statute as to punishment for contempt, does not apply. Ex parte Stone (S.C. 1960) 236 S.C. 263, 113 S.E.2d 786.

4. Review

Contempt orders of lower court were rendered moot by death of defendant during course of appeal to Supreme Court. Stone v. Guaranty Bank & Trust Co. (S.C. 1978) 270 S.C. 331, 242 S.E.2d 404.

**SECTION 14‑5‑330.** Oaths and affirmations.

The circuit court may administer all necessary oaths or affirmations.

HISTORY: 1962 Code Section 15‑231.2; 1952 Code Section 15‑231.2; 1942 Code Section 34; 1932 Code Section 34; Civ. P. ‘22 Section 33; Civ. C. ‘12 Section 3831; Civ. C. ‘02 Section 2734; G. S. 2113; R. S. 2245; 1868 (14) 136.

Library References

Courts 153.

Westlaw Topic No. 106.

Attorney General’s Opinions

Ministerial recorder who is not Notary Public, minister of gospel, or accepted Jewish Rabbi, is not authorized to perform marriage ceremony in this State. 1984 Op.Atty.Gen. No. 84‑60, p. 149 (May 24, 1984) 1984 WL 159867.

**SECTION 14‑5‑340.** Appeals from magistrates or municipal courts; notice of hearing.

Circuit judges may hear appeals from magistrates’ courts and municipal courts to the court of general sessions and the court of common pleas, upon notice as required by law being given for the hearing of such appeals.

HISTORY: 1962 Code Section 15‑232; 1952 Code Section 15‑232; 1942 Code Section 37; 1932 Code Section 37; Civ. P. ‘22 Section 35; Civ. C. ‘12 Section 3833; Civ. C. ‘02 Section 2736; G. S. 2115; R. S. 2247; 1818 (7) 321; 1882 (17) 38; 1887 (19) 813; 1891 (20) 1123; 1899 (23) 30; 1908 (25) 1055; 1920 (31) 806; 1921 (32) 281; 1925 (34) 94; 1930 (36) 1247; 1933 (38) 50; 1937 (40) 79; 1961 (52) 7.

Library References

Courts 153.

Westlaw Topic No. 106.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Constitutional Law Section 19, Structure of the Judicial System.

S.C. Jur. Forfeitures Section 10, Due Process Considerations.

S.C. Jur. Magistrates and Municipal Judges Section 61.1, Circuit Court Action on Appeal.

NOTES OF DECISIONS

In general 1

Review 2

1. In general

Circuit court, in its appellate capacity, had jurisdiction to entertain State’s appeal from magistrate’s pre‑trial rulings dismissing open container charge and suppressing evidence which significantly impaired the prosecution of charge of driving with an unlawful alcohol concentration. State v. Belviso (S.C.App. 2004) 360 S.C. 112, 600 S.E.2d 68, rehearing denied, certiorari denied. Criminal Law 1024(1)

Failure to comply with procedural requirements for appeal from magistrate’s court divests a circuit court of appellate jurisdiction, not subject matter jurisdiction. State v. Brown (S.C. 2004) 358 S.C. 382, 596 S.E.2d 39, rehearing denied. Criminal Law 260.4

Although Section 23‑33‑40 gives concurrent jurisdiction to the Circuit Courts and to Magistrates in ejectment proceedings, the Circuit Courts still have appellate jurisdiction over ejectment cases initially heard by a Magistrate, pursuant to Sections 27‑37‑120, 14‑5‑340, and 18‑7‑170. Vacation Time of Hilton Head Island, Inc. v. Kiwi Corp. (S.C.App. 1984) 280 S.C. 232, 312 S.E.2d 20. Justices Of The Peace 141(1)

2. Review

Court of Appeals was not authorized to consider affidavits outside the record on appeal in determining whether defendant timely appealed to circuit court from magistrate’s court. State v. Brown (S.C. 2004) 358 S.C. 382, 596 S.E.2d 39, rehearing denied. Criminal Law 1128(2)

**SECTION 14‑5‑350.** Powers of judges at chambers generally; place of hearing.

All regular and special judges shall have at chambers in any county within the circuit in which they are resident or in the circuit in which they are assigned to hold court all powers and jurisdiction which they have and exercise in open court in any county within such circuit, except for the determination of such matters as necessitate trial by jury. They may hear and determine actions for partition and foreclosure suits and all other equity matters concerning real estate whether within or without the county where the land in question lies. But no hearing, except with consent, shall be had outside the judicial circuit of the judge having jurisdiction.

HISTORY: 1962 Code Section 15‑233; 1952 Code Section 15‑233; 1942 Code Section 37; 1932 Code Section 37; Civ. P. ‘22 Section 35; Civ. C. ‘12 Section 3833; Civ. C. ‘02 Section 2736; G. S. 2115; R. S. 2247; 1818 (7) 321; 1882 (17) 38; 1887 (19) 813; 1891 (20) 1123; 1899 (23) 30; 1908 (25) 1055; 1920 (31) 806; 1921 (32) 281; 1925 (34) 94; 1930 (36) 1247; 1933 (38) 50; 1937 (40) 79.

CROSS REFERENCES

Constitutional provisions pertaining to jurisdiction of the Circuit Court, see SC Const. Art. V, Section 11.

Courts enforcing tax liabilities imposed by certain other states, see Section 12‑49‑90.

Judicial power vested in certain courts, generally, see SC Const. Art. V, Section 1.

Jurisdiction of Circuit Court, see SC Const. Art. V, Section 11.

Motions, generally, see SCRCP, Rule 7.

Power of circuit judge to issue administrative warrant for inspection as to occupational health and safety matters, see Section 41‑15‑260.

Library References

Courts 153.

Westlaw Topic No. 106.

RESEARCH REFERENCES

Encyclopedias

130 Am. Jur. Trials 95, Partition of Property.

LAW REVIEW AND JOURNAL COMMENTARIES

The Federal Anti‑Injunction Statute and the Related Abstention Doctrine. 21 S.C. L. Rev. 313.

A number of the cases noted below were decided prior to the enactment of 1925 Act No. 60 [1925 (34) 94], giving to regular and special judges at chambers “all powers and jurisdiction which they have and exercise in open court.” For a discussion of the effect of this statute on the powers of judges at chambers to vacate and correct judgments, see ‘Handbook of South Carolina Trial and Appellate Practice,” 11 SC LQ Supp, 32 (1959).

NOTES OF DECISIONS

In general 1

1. In general

And circuit judge has jurisdiction at chambers to entertain a motion to open up a mortgage foreclosure case after decree of dismissal to introduce additional evidence on proper showing of due diligence. Green v E. B. Gresham Co., 168 SC 395, 167 SE 659 (1932). Turner v Foreman, 47 SC 31, 24 SE 989 (1895). Green v E. B. Gresham Co., 168 SC 395, 167 SE 659 (1932).

Receiver’s certificate issuable at chambers. State v Port Royal & A. Ry. Co., 45 SC 413, 23 SE 363 (1893). Dixon v Floyd, 73 SC 202, 53 SE 167 (1905).

But judge at chambers has no jurisdiction to hear a motion to vacate a judgment. Turner v Foreman, 47 SC 31, 24 SE 989 (1895). Bank of Manning v Mellett, 44 SC 383, 22 SE 444 (1894). Clawson v Hutchinson, 14 SC 517 (1880). Charles v Jacobs, 5 SC 348 (1873).

A question of subject matter jurisdiction is a question of law for the court. Martin v. Paradise Cove Marina, Inc. (S.C.App. 2001) 348 S.C. 379, 559 S.E.2d 348, rehearing denied, certiorari denied. Courts 39

Once the remittitur is issued from an appellate court, the circuit court acquires jurisdiction to enforce the judgment and take any action consistent with the appellate court’s ruling. Martin v. Paradise Cove Marina, Inc. (S.C.App. 2001) 348 S.C. 379, 559 S.E.2d 348, rehearing denied, certiorari denied. Appeal And Error 1198; Appeal And Error 1204

Circuit courts are vested with jurisdiction to hear motions for statutory attorney fees and trial costs after a remittitur has been issued. Martin v. Paradise Cove Marina, Inc. (S.C.App. 2001) 348 S.C. 379, 559 S.E.2d 348, rehearing denied, certiorari denied. Costs 197

Actions requesting settlement of claims owed by and to an estate must be originated in the probate court. Thus, in an action by 2 brothers against a third brother for partition by sale of real property inherited by the 3 from their mother and for the settlement of various claims against their father’s estate, the parties’ claims relating to their father’s estate were matters for the probate court and, therefore, the circuit court lacked jurisdiction over the subject matter of that portion of the action. Anderson v. Anderson (S.C. 1989) 299 S.C. 110, 382 S.E.2d 897.

Where resident judge referred divorce action to special referee, and judge was absent on vacation when report of special referee was filed but was scheduled to return on August 6, and husband’s counsel moved to take up exceptions to report before judge of adjoining circuit, and first judge returned on August 6, it was error for second judge to grant motion to hear exceptions on August 14 duPont v. duPont (S.C. 1970) 253 S.C. 591, 172 S.E.2d 372.

Exercise of jurisdiction at chambers by judge of adjoining circuit is permissible only when statutory condition is met, that is, circuit in which matter arises is without a resident or presiding judge by reason of absence or otherwise. duPont v. duPont (S.C. 1970) 253 S.C. 591, 172 S.E.2d 372.

Powers of circuit judge at chambers may be exercised only in county of circuit in which such judge resides or is assigned to hold court, except that, during absence of resident or presiding judge from circuit, jurisdiction of any matter in such circuit may be exercised by resident or presiding judge of adjoining circuit. duPont v. duPont (S.C. 1970) 253 S.C. 591, 172 S.E.2d 372.

And demurrer may be heard and determined though case not docketed. Demurrer to complaint was properly heard and determined at a hearing at chambers, of which due notice had previously been given, though case had not been docketed. First Presbyterian Church of York v. York Depository (S.C. 1943) 203 S.C. 410, 27 S.E.2d 573. Pleading 218(2)

And judge may pass upon proceedings for criminal contempt. Under the provisions of this section [code 1962 Section 15‑233], circuit judges sitting at chambers, subject to certain limitations, have the same power and jurisdiction in respect to the business to be brought before them as if they were respectively sitting in open court, and this includes the power and jurisdiction to pass upon proceedings for criminal contempt. Greenwood County v. Shay (S.C. 1943) 202 S.C. 16, 23 S.E.2d 825.

Code 1962 sections 10‑20, 10‑310 and this section [Code 1962 Section 15‑233] taken together authorize a circuit judge at chambers to hear and determine a motion for a change of venue. Dennis v. McKnight (S.C. 1931) 161 S.C. 213, 159 S.E. 557. Venue 60

Court has power to grant temporary injunction at chambers. Ex parte Jones (S.C. 1931) 160 S.C. 63, 158 S.E. 134, 77 A.L.R. 235.

Defendant in injunction suit could have had question whether plaintiff had another exclusive remedy or whether complaint stated cause of action determined at chambers, as regards right to prohibition. Ex parte Jones (S.C. 1931) 160 S.C. 63, 158 S.E. 134, 77 A.L.R. 235. Prohibition 29

Nor may demurrer be heard in county other than that in which action is pending. A judge of another county than that in which the action is pending does not have jurisdiction to hear and determine a demurrer pertaining to that action in chambers. Hernlen v. People’s Bank of Anderson (S.C. 1926) 135 S.C. 313, 133 S.E. 549. Pleading 218(1)

Jury trial cannot be given at chambers and is thus not demandable in quo warranto. State v. Gibbes (S.C. 1918) 109 S.C. 135, 95 S.E. 346.

Judgment cannot be corrected at chambers without the consent of parties. A judge at chambers has no power or jurisdiction to correct a judgment of the circuit court without the consent of all the parties. Middleton v. Denmark Ice & Fuel Co. (S.C. 1914) 97 S.C. 457, 81 S.E. 157. Judgment 297

Motion for discontinuance may be heard and granted at chambers. Shelton v. Southern Ry., Carolina Div. (S.C. 1908) 80 S.C. 74, 61 S.E. 220.

Written consent of parties is unnecessary. Pearson v. Breeden (S.C. 1908) 79 S.C. 302, 60 S.E. 706.

Nonresident judge at chambers may order a jury drawn while presiding in the circuit. State v. Powers (S.C. 1901) 59 S.C. 200, 37 S.E. 690.

Application for mandamus cannot be heard out of circuit. A circuit judge, while holding court in a circuit other than his own, has no jurisdiction to hear and determine at chambers in such circuit an application for mandamus in a cause which arose in his circuit. State v. Smith (S.C. 1897) 50 S.C. 558, 27 S.E. 933. Mandamus 141

The fact that an injunction may be necessary to make the relief on the motion for the vacation of the judgment effectual is not sufficient to give a court of equity jurisdiction, since that relief was always obtainable by a motion to stay the execution, even before the enactment of Gen.St. Section 2115 (See Code 1942, Section 37), expressly conferring such power on a circuit judge in chambers. Crocker v. Allen (S.C. 1891) 34 S.C. 452, 13 S.E. 650, 27 Am.St.Rep. 831.

Nor can a final order given in court be vacated at chambers. In a case where a judge issued a writ of certiorari from the court of common pleas, and an order entered on the return of such writ, restraining permanently a magistrate from issuing his warrant to eject a tenant, it was held that such order was final, and that it could not be vacated by a circuit judge at chambers, not even by the judge who presided at court when such order was made, unless it was procured by fraud or misrepresentation. Coleman v. Keels (S.C. 1889) 30 S.C. 614, 9 S.E. 270. Judgment 342(4)

But an order of sale in partition suit may be granted at chambers without the consent of the parties in interest. Woodward v. Elliott (S.C. 1887) 27 S.C. 368, 3 S.E. 477.

Nor can a judge grant a perpetual injunction at chambers against the consent of the party, or until the issues of the action have been heard and determined. Hornesby v. Burdell (S.C. 1877) 9 S.C. 303. Judges 27

**SECTION 14‑5‑360.** Powers when temporarily absent from circuit.

Circuit judges may grant orders and decrees in cases arising in the circuit in which they may be at the time the presiding judges therein or resident judges thereof, when they are temporarily absent from the circuit. This provision shall not be construed so as to nullify or limit any other powers conferred on circuit judges.

HISTORY: 1962 Code Section 15‑234; 1952 Code Section 15‑234; 1942 Code Section 37; 1932 Code Section 37; Civ. P. ‘22 Section 35; Civ. C. ‘12 Section 3833; Civ. C. ‘02 Section 2736; G. S. 2115; R. S. 2247; 1818 (7) 321; 1882 (17) 38; 1887 (19) 813; 1891 (20) 1123; 1899 (23) 30; 1908 (25) 1055; 1920 (31) 806; 1921 (32) 281; 1925 (34) 94; 1930 (36) 1247; 1933 (38) 50; 1937 (40) 79.

Library References

Courts 153.

Westlaw Topic No. 106.

**SECTION 14‑5‑370.** Jurisdiction of judge of adjoining circuit.

In case any judicial circuit is without a resident judge, by reason of death, absence, disqualification or otherwise, and no other judge, special or regular, is presiding therein, then jurisdiction in all matters arising in such circuit is conferred upon and shall be exercised by the resident judge of any adjoining circuit or by any judge presiding therein. Any judge exercising such jurisdiction shall first satisfy himself of the necessity of doing so by affidavit of the moving party.

HISTORY: 1962 Code Section 15‑235; 1952 Code Section 15‑235; 1942 Code Section 37; 1932 Code Section 37; Civ. P. ‘22 Section 35; Civ. C. ‘12 Section 3833; Civ. C. ‘02 Section 2736; G. S. 2115; R. S. 2247; 1818 (7) 321; 1882 (17) 38; 1887 (19) 813; 1891 (20) 1123; 1899 (23) 30; 1908 (25) 1055; 1920 (31) 806; 1921 (32) 281; 1925 (34) 94; 1930 (36) 1247; 1933 (38) 50; 1937 (40) 79.

CROSS REFERENCES

Assignment of another judge to hold court by reason of circumstances similar to those set forth in this section, see Section 14‑5‑160.

Constitutional provisions pertaining to jurisdiction of the Circuit Court, see SC Const. Art. V, Section 11.

Jurisdiction of circuit court, see SC Const. Art. V, Section 11.

Jurisdiction of judge of adjoining circuit under South Carolina Rules of Civil Procedure, see Rule 63, SCRCP.

Library References

Courts 153.

Westlaw Topic No. 106.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. South Carolina Rules of Civil Procedure Section 63.1, Reporter’s Notes.

NOTES OF DECISIONS

In general 1

Affidavit 3

Construction and application 2

1. In general

Circuit judge who was presiding over proceeding in county located in circuit not adjoining his circuit, was without jurisdiction to hear and determine application for judgment by default in case pending in county included in his circuit where resident judge was not temporarily absent from his resident circuit nor was it situation where matter was heard by resident judge while in his home circuit but decided after leaving his home circuit to sit in another. McEachern v. Poston (S.C. 1979) 273 S.C. 122, 254 S.E.2d 796. Judges 30

Exercise of jurisdiction at chambers by judge of adjoining circuit is permissible only when statutory condition is met, that is, circuit in which matter arises is without a resident or presiding judge by reason of absence or otherwise. duPont v. duPont (S.C. 1970) 253 S.C. 591, 172 S.E.2d 372.

Where resident judge referred divorce action to special referee, and judge was absent on vacation when report of special referee was filed but was scheduled to return on August 6, and husband’s counsel moved to take up exceptions to report before judge of adjoining circuit, and first judge returned on August 6, it was error for second judge to grant motion to hear exceptions on August 14. duPont v. duPont (S.C. 1970) 253 S.C. 591, 172 S.E.2d 372.

Powers of circuit judge at chambers may be exercised only in county of circuit in which such judge resides or is assigned to hold court, except that, during absence of resident or presiding judge from circuit, jurisdiction of any matter in such circuit may be exercised by resident or presiding judge of adjoining circuit. duPont v. duPont (S.C. 1970) 253 S.C. 591, 172 S.E.2d 372.

Where judge gave default judgment in one county on action triable in another county of same judicial circuit, the judgment was effective. McInnis v. Caulk (S.C. 1935) 176 S.C. 399, 180 S.E. 340. Judgment 10

Judge to act cannot remain in his circuit. This section [Code 1962 Section 15‑235] does not confer upon the resident or presiding judge of a circuit, adjoining one that is without such judge, authority to remain in his own circuit and exercise jurisdiction in jury trials in civil and criminal causes arising in the other. Winn v. Harby (S.C. 1932) 166 S.C. 99, 164 S.E. 434, reversed 52 S.Ct. 520, 286 U.S. 318, 76 L.Ed. 1127.

Where adjoining circuit had three other courts in session, circuit court could not assume jurisdiction in such adjoining circuit for circuit judge’s disqualification. Winn v. Harby (S.C. 1932) 166 S.C. 99, 164 S.E. 434, reversed 52 S.Ct. 520, 286 U.S. 318, 76 L.Ed. 1127. Judges 30

2. Construction and application

This section [Code 1962 Section 15‑235] is not superseded by Code 1962 Section 15‑216 for filling circuit judge vacancies, so as to make assumption of jurisdiction under this section [Code 1962 Section 15‑235] unauthorized. Winn v. Harby (S.C. 1932) 166 S.C. 99, 164 S.E. 434, reversed 52 S.Ct. 520, 286 U.S. 318, 76 L.Ed. 1127. Judges 30

3. Affidavit

The purpose of the affidavit is to satisfy the judge of the adjoining circuit that there is no resident or presiding judge in the circuit in which the cause is pending. Peoples Nat. Bank of Greenville v. Manos Bros., Inc. (S.C. 1954) 226 S.C. 257, 84 S.E.2d 857, 45 A.L.R.2d 1070.

Jurisdiction is not conferred by the affidavit required by this section [Code 1962 Section 15‑235], but by the fact that there is no resident or presiding judge in the circuit in which the cause is pending. Peoples Nat. Bank of Greenville v. Manos Bros., Inc. (S.C. 1954) 226 S.C. 257, 84 S.E.2d 857, 45 A.L.R.2d 1070.

Objection to jurisdiction based upon absence of affidavit must be timely. Where timely objection to jurisdiction based upon absence of the affidavit required by this section [Code 1962 Section 15‑235] was not made, party was estopped to question jurisdiction on that ground on appeal. Peoples Nat. Bank of Greenville v. Manos Bros., Inc. (S.C. 1954) 226 S.C. 257, 84 S.E.2d 857, 45 A.L.R.2d 1070.

Filing of affidavit nunc pro tunc. The affidavit being not the creator of the jurisdiction, but merely the evidence of its existence as required by this section [Code 1962 Section 15‑235], it is within the power of the trial judge to permit its filing nunc pro tunc. Peoples Nat. Bank of Greenville v. Manos Bros., Inc. (S.C. 1954) 226 S.C. 257, 84 S.E.2d 857, 45 A.L.R.2d 1070.

Affidavit must be shown by record. This section [Code 1962 Section 15‑235] provides that before a resident or presiding circuit judge may exercise jurisdiction in matters arising in an adjoining circuit, the necessity for assuming such jurisdiction must be shown by affidavit of the moving party, and unless this condition is complied with, and such compliance is shown by the record, then no jurisdiction is conferred. Ex parte Hart (S.C. 1938) 186 S.C. 125, 195 S.E. 253.

**SECTION 14‑5‑380.** Powers of judge holding court in circuit other than that of residence.

Every judge while holding the circuit court for any circuit pursuant to the provisions of the law of this State shall be invested with powers equal to those of the judge of such circuit and may hear and determine all causes and motions and grant all orders in open court or at chambers which it is competent for the judge residing in such circuit to hear, determine or grant, any law, usage or custom to the contrary notwithstanding.

HISTORY: 1962 Code Section 15‑236; 1952 Code Section 15‑236; 1942 Code Section 38; 1932 Code Section 38; Civ. P. ‘22 Section 36; Civ. C. ‘12 Section 3834; Civ. C. ‘02 Section 2737; G. S. 2116; R. S. 2248; 1878 (16) 395.

CROSS REFERENCES

Motions, generally, see SCRCP, Rule 7.

Power of circuit court and special judges at chambers, see Section 14‑5‑350.

Power of circuit judge to issue administrative warrant for inspection as to occupational health and safety matters, see Section 41‑15‑260.

Powers of judge after leaving circuit to which he was assigned, see note to Section 14‑3‑390.

Provisions where judge is unable to hold court, see Sections 14‑5‑160 to 14‑5‑190.

Special sessions of circuit courts, see Sections 14‑5‑910 to 14‑5‑950.

Library References

Courts 153.

Westlaw Topic No. 106.

NOTES OF DECISIONS

In general 1

Construction and application 2

1. In general

Jurisdiction of special judge limited to the county to which commissioned. A special judge whose commission is limited to a particular county has no jurisdiction to try matters arising elsewhere in the circuit. Evans v. Town of Edgefield (S.C. 1925) 132 S.C. 380, 129 S.E. 207.

Where a motion was marked “Heard” by one circuit judge, but was not actually heard and disposed of, under Code Civ.Proc.1922, Sections 36, 754, subd. 4 (See Code 1942, Sections 38, 817), another circuit judge was not precluded from hearing and disposing of motion. In re Doran (S.C. 1924) 129 S.C. 26, 123 S.E. 501.

Motion for discontinuance may be heard and granted at chambers. Shelton v. Southern Ry., Carolina Div. (S.C. 1908) 80 S.C. 74, 61 S.E. 220.

Nonresident judge may make order requiring a jury to be drawn, while presiding in the circuit. State v. Powers (S.C. 1901) 59 S.C. 200, 37 S.E. 690.

And to such business as appears on the calendar. When a judge is assigned for a special term of court, he can transact no other business than that on the calendar. Simms v. Phillips (S.C. 1896) 46 S.C. 149, 24 S.E. 97.

Under this section [Code 1962 Section 15‑236] and Code 1962 Section 15‑37, a judge is given no jurisdiction to grant a writ of certiorari in a case tried in another circuit while the judge thereof is holding court therein. State v. Black (S.C. 1891) 34 S.C. 194, 13 S.E. 361.

2. Construction and application

This section [Code 1962 Section 15‑236] should be construed with Code 1962 Sections 15‑301 to 15‑305, which should be regarded as a limitation upon the general powers of circuit judges when only an extra term of court is being held. Simms v. Phillips (S.C. 1896) 46 S.C. 149, 24 S.E. 97.

**SECTION 14‑5‑390.** Jurisdiction of judge within circuit wherein he resides.

Every circuit judge in this State shall at all times have jurisdiction to discharge and perform all the duties of his office within the circuit wherein he resides, except the holding of circuit courts therein when some other circuit judge shall be engaged in holding such courts.

HISTORY: 1962 Code Section 15‑237; 1952 Code Section 15‑237; 1942 Code Section 39; 1932 Code Section 39; Civ. P. ‘22 Section 37; Civ. C. ‘12 Section 3835; Civ. C. ‘02 Section 2738; G. S. 2117; R. S. 2249; 1878 (16) 395.

CROSS REFERENCES

Constitutional provisions pertaining to jurisdiction of the Circuit Court, see SC Const. Art. V, Section 11.

Jurisdiction of Circuit Court, see SC Const. Art. V, Section 11.

Power of circuit and special judges at chambers, see Section 14‑5‑350.

Power of circuit judge to issue administrative warrant for inspection as to occupational health and safety matters, see Section 41‑15‑260.

Power of judges holding court in other circuits, see Section 14‑5‑380.

Library References

Courts 153.

Westlaw Topic No. 106.

Attorney General’s Opinions

The Court of General Sessions has jurisdiction to try and sentence a 16 year old on a charge of armed robbery where the Family Court has previously waived jurisdiction to the Circuit Court. 1974‑75 Op.Atty.Gen. No 3998, p 67 (March 18, 1975) 1975 WL 22296.

NOTES OF DECISIONS

In general 1

1. In general

Jurisdiction of special judge may be limited to the county to which he is commissioned. Evans v Edgefield, 132 SC 380, 129 SE 207 (1924). State v Black, 34 SC 194, 13 SE 361 (1891).

Circuit judge, while sitting in one circuit, has no jurisdiction to hear and determine application for judgment by default in case pending in another circuit. McEachern v. Poston (S.C. 1979) 273 S.C. 122, 254 S.E.2d 796. Judges 30

Const. art. 5, Section 25, provides that the judges of the circuit courts shall have such jurisdiction at chambers as the General Assembly may provide. Code Civ.Proc.1902, Section 402 (See Code 1942, Section 817), provides that motions may be made to a judge out of court except for new trial, on the merits. Civ.Code 1902, Section 2738 (See Code 1942, Section 39); provides that every circuit judge shall at all times have jurisdiction to perform all the duties of his office within the circuit wherein he resides, except the holding of circuit courts therein, when some other circuit judge shall be engaged in holding said courts. Sections 2733, 2736, and 2737 (See Code 1942, Sections 33, 37, 38), relating to powers at chambers, do not in terms provide for hearing a motion at chambers for leave to discontinue, but the limitations provided therein do not deny such power. Held, that a motion for discontinuance may be heard and granted at chambers. Shelton v. Southern Ry., Carolina Div. (S.C. 1908) 80 S.C. 74, 61 S.E. 220.

Judge sitting in one circuit cannot determine proceeding arising in another circuit. A judge cannot hear and determine at chambers in another circuit an application for a writ of mandamus in a case arising within his own circuit. State v. Smith (S.C. 1897) 50 S.C. 558, 27 S.E. 933.

This section [Code 1962 Section 15‑237] was cited in support of the conclusion that the court of common pleas, while sitting in one circuit, has no jurisdiction over a case pending in another circuit. State v. Smith (S.C. 1897) 50 S.C. 558, 27 S.E. 933.

Effect of signing of order outside of circuit. The fact that a judge signs an order of bail outside of his circuit for a prisoner of his circuit, does not necessarily show that he heard the application beyond his circuit. State v. Satterwhite (S.C. 1884) 20 S.C. 536. Judges 30

**SECTION 14‑5‑400.** Jurisdiction of judge presiding at term beginning last Monday in April.

Any judge of the circuit court of this State who may be presiding at a court in any county in the State at a term beginning the last Monday in April of any year shall have jurisdiction of all matters throughout such term, notwithstanding such term may extend into the month of May.

HISTORY: 1962 Code Section 15‑238; 1952 Code Section 15‑238; 1942 Code Section 64‑1; 1941 (42) 189.

Library References

Courts 153.

Westlaw Topic No. 106.

**SECTION 14‑5‑410.** Transacting general sessions business during common pleas court.

Whenever provision is made for holding the court of common pleas the presiding judge, during the time allowed for the holding of the court of common pleas, may open the court of general sessions and transact all or such business of the court of general sessions except trials by jury as such judge may deem expedient.

HISTORY: 1962 Code Section 15‑239; 1952 Code Section 15‑239; 1942 Code Section 65; 1932 Code Section 65; 1929 (36) 209; 1941 (42) 118.

Library References

Courts 153.

Westlaw Topic No. 106.

NOTES OF DECISIONS

In general 1

1. In general

Where statutory March term of court of common pleas ended March 19, and term of court of general sessions convened on March 21, third week fixed by statute for holding court of general sessions was not a continuation of preceding term of the court of common pleas, and under statute providing that notice of intention to appeal to Supreme Court must be filed within 10 days after rising of circuit court, plaintiff’s notice of intention to appeal served on March 31 was not within time. Stroup v. Duke Power Co. (S.C. 1949) 216 S.C. 79, 56 S.E.2d 745. Appeal And Error 428(2); Courts 65

**SECTION 14‑5‑420.** Transacting common pleas business during general sessions court.

The court of common pleas shall be open at all terms of the court of general sessions for the transaction of all business of regular terms of the court of common pleas except trial by jury, and cases in the court of common pleas may be tried by jury during the term of any court of general sessions on consent of the parties or their attorneys to any of such cases and when such trial does not conflict with the business of the court of general sessions.

HISTORY: 1962 Code Section 15‑240; 1952 Code Section 15‑240; 1942 Code Section 66; 1932 Code Section 66; Civ. P. ‘22 Section 63; Civ. P. ‘12 Section 30; Civ. P. ‘02 Section 26; 1878 (16) 703; 1888 (18) 586; 1904 (24) 422; 1914 (28) 570; 1916 (29) 700; 1941 (42) 118.

Library References

Courts 153.

Westlaw Topic No. 106.

NOTES OF DECISIONS

In general 1

1. In general

Judge is required to open court of common pleas. A judge is not only authorized but required to open the court of common pleas at the conclusion of the court of general sessions. Burwell & Dunn Co. v Chapman, 59 SC 581, 38 SE 222 (1900). Ward v Western Union Tel. Co., 62 SC 274, 40 SE 670 (1901).

Section is a general statute. This section [Code 1962 Section 15‑240] is not a local statute but is a general provision applicable to the courts in every county. Stroup v. Duke Power Co. (S.C. 1949) 216 S.C. 79, 56 S.E.2d 745.

Purposes of section. The evident purpose of this enactment was to expedite the hearing of civil matters by enabling litigants to transact civil business during the criminal court, where this can be done without serious interruption to the work of the court of general sessions. Stroup v. Duke Power Co. (S.C. 1949) 216 S.C. 79, 56 S.E.2d 745.

Since common pleas is not continued during court of general sessions. Where statutory term of court of common pleas ended March 19 and the court of general sessions convened on March 21 for a term of one week, notice of intention to appeal was not within the ten‑day period required by Code 1962 Section 7‑405, despite plaintiff’s contention that the terms of this section [Code 1962 Section 15‑240] should be construed to mean that the term of the court of common pleas continued during the court of general sessions. Stroup v. Duke Power Co. (S.C. 1949) 216 S.C. 79, 56 S.E.2d 745.

This section [Code 1962 Section 15‑240] applies wherever provision is made by statute for the opening of the general sessions only. Burwell & Dunn Co. v. Chapman (S.C. 1901) 59 S.C. 581, 38 S.E. 222.

The common pleas opened under the authority of this section [Code 1962 Section 15‑240] is not a regular term. McLaurin v. Kelly (S.C. 1894) 40 S.C. 486, 19 S.E. 143.

**SECTION 14‑5‑430.** Adjournment of court of common pleas when general sessions not concluded.

Should the business before the court of general sessions at any term not be completed on the arrival of the day fixed by law for the holding of the court of common pleas, the judge presiding may, in his discretion, adjourn the court of common pleas until the business of the court of general sessions shall have been concluded.

HISTORY: 1962 Code Section 15‑241; 1952 Code Section 15‑241; 1942 Code Section 67; 1932 Code Section 67; Civ. P. ‘22 Section 64; Civ. P. ‘12 Section 31; Civ. P. ‘02 Section 27; 1870 (14) Section 27; 1889 (20) 359.

Library References

Courts 153.

Westlaw Topic No. 106.

NOTES OF DECISIONS

In general 1

1. In general

Case begun in general sessions may be finished in common pleas session. A criminal case begun during the week assigned for holding the court of general sessions might be continued and ended in the following week assigned for the trial of cases in the court of common pleas. State v Hasty, 76 SC 105, 56 SE 669 (1906). State v Hunter, 79 SC 91, 60 SE 226 (1907).

But such opening is by operation of law. Where the officers and machinery are present in the courthouse on the day fixed for the meeting of the court of common pleas, that court is then opened by operation of law without any formality. Hardin v Trimmier, 30 SC 391, 9 SE 342 (1888). Miller v George, 30 SC 526, 9 SE 659 (1888). State v Hasty, 76 SC 105, 56 SE 669 (1906). State v Hunter, 79 SC 91, 60 SE 226 (1907).

Therefore, the court of general sessions and the court of common pleas may be opened at the same time. State v Hunter, 79 SC 91, 60 SE 226 (1907). McKellar v Parker, 29 SC 237, 7 SE 295 (1887).

Judge cannot keep court open beyond time for holding court in another county. The conclusion is irresistible that a judge has no power to take a recess and keep the court open, or to adjourn it beyond the time fixed by statute for his holding the court of another county. Haughton v. Order of United Commercial Travelers of America (S.C. 1917) 108 S.C. 73, 93 S.E. 393.

Before adjournment the court of common pleas must first be opened. It is necessary to the adjournment herein provided for, that the court of common pleas should be first opened on the day fixed for its holding. McKeller v. Parker (S.C. 1888) 29 S.C. 237, 7 S.E. 295.

The court of common pleas can be opened and adjourned without adjourning the court of general sessions, when the business before the latter court has been completed. McKeller v. Parker (S.C. 1888) 29 S.C. 237, 7 S.E. 295.

**SECTION 14‑5‑440.** Calling off regular terms of common pleas court.

Regular terms of the court of common pleas fixed by statute shall not be called off by the request of the members of the bar in the county in which the court is to be held unless at least three fourths of the resident members of such bar having cases for trial at that time request the same, in writing, of the judge who is to preside at such court.

HISTORY: 1962 Code Section 15‑243; 1952 Code Section 15‑243; 1942 Code Section 68; 1933 (38) 264; 1943 (43) 217.

Library References

Courts 153.

Westlaw Topic No. 106.

**SECTION 14‑5‑450.** Adjournment of circuit courts on account of disease.

The judge of the circuit court shall have power to direct any circuit court in his circuit to be adjourned over to a future day designated in a written order to the clerk of such court whenever there is a dangerous and general disease at the place where such court is usually held.

HISTORY: 1962 Code Section 15‑245; 1952 Code Section 15‑245; 1942 Code Section 71; 1932 Code Section 71; Civ. P. ‘22 Section 68; Civ. P. ‘12 Section 35; Civ. P. ‘02 Section 30; 1870 (16) Section 30.

CROSS REFERENCES

Adjournment of court of common pleas, see Section 14‑5‑430.

Library References

Courts 153.

Westlaw Topic No. 106.

NOTES OF DECISIONS

In general 1

1. In general

Inquiry as to conditions cannot be made after order of adjournment. An adjournment having been made under this section [Code 1962 Section 15‑245] because of the condition herein mentioned, no inquiry can be made as to whether such conditions actually existed. Adicks v Allison & Bratton, 21 SC 256 (1884). Haughton v Order of United Commercial Travelers, 108 SC 73, 93 SE 393 (1916).

ARTICLE 7

Circuits and Terms of Court

**SECTION 14‑5‑610.** Division of state into sixteen judicial circuits; number of judges to be elected from each circuit; election of additional judges without regard to county or circuit of residence.

(A) The State is divided into sixteen judicial circuits as follows:

(1) The first circuit is composed of the counties of Calhoun, Dorchester, and Orangeburg.

(2) The second circuit is composed of the counties of Aiken, Bamberg, and Barnwell.

(3) The third circuit is composed of the counties of Clarendon, Lee, Sumter, and Williamsburg.

(4) The fourth circuit is composed of the counties of Chesterfield, Darlington, Marlboro, and Dillon.

(5) The fifth circuit is composed of the counties of Kershaw and Richland.

(6) The sixth circuit is composed of the counties of Chester, Lancaster, and Fairfield.

(7) The seventh circuit is composed of the counties of Cherokee and Spartanburg.

(8) The eighth circuit is composed of the counties of Abbeville, Greenwood, Laurens, and Newberry.

(9) The ninth circuit is composed of the counties of Charleston and Berkeley.

(10) The tenth circuit is composed of the counties of Anderson and Oconee.

(11) The eleventh circuit is composed of the counties of Lexington, McCormick, Saluda, and Edgefield.

(12) The twelfth circuit is composed of the counties of Florence and Marion.

(13) The thirteenth circuit is composed of the counties of Greenville and Pickens.

(14) The fourteenth circuit is composed of the counties of Allendale, Hampton, Colleton, Jasper, and Beaufort.

(15) The fifteenth circuit is composed of the counties of Georgetown and Horry.

(16) The sixteenth circuit is composed of the counties of York and Union.

(B) One judge must be elected from the second, sixth, and twelfth circuits. Two judges must be elected from the first, third, fourth, seventh, eighth, tenth, eleventh, fourteenth, fifteenth, and sixteenth circuits. Three judges must be elected from the fifth and ninth circuits. Four judges must be elected from the thirteenth circuit.

(C) In addition to the above judges authorized by this section, there must be sixteen additional circuit judges elected by the General Assembly from the State at large for terms of office of six years. These additional judges must be elected without regard to county or circuit of residence. Each office of the at‑large judges is a separate office and is assigned numerical designations of Seat No. 1 through Seat No. 16, respectively.

HISTORY: 1962 Code Section 15‑261; 1952 Code Section 15‑261; 1942 Code Section 50; 1932 Code Section 50; Civ. P. ‘22 Section 48; Civ. P. ‘12 Section 17; Civ. P. ‘02 Section 17; 1868 (14) 5, 72; 1869 (14) 198; 1870 (14) 17; 1871 (14) 659, 696; 1872 (15) 146; 1878 (16) 376; 1882 (17) 682; 1889 (20) 518; 1896 (22) 250; 1897 (22) 583, 592, 597, 609; 1898 (22) 879; 1899 (23) 31, 179; 1908 (25) 1002, 1283; 1910 (26) 867; 1912 (27) 827; 1914 (28) 579, 636; 1916 (29) 688, 717; 1919 (31) 5; 1926 (34) 1041; 1927 (35) 68; 1931 (37) 51; 1962 (52) 1884; 1966 (54) 2164; Const. 1895 Art. 5 Section 13; 1976 Act No. 690 Art. VI Section 1; 1979 Act No. 164 Part IV Section 1, eff July 1, 1979; 1982 Act No. 316, Section 1, eff April 9, 1982; 1990 Act No. 610, Part I, Section 1, eff July 1, 1991; 1995 Act No. 145, Part II, Section 85A, eff June 29, 1995; 1997 Act No. 155, Part II, Section 27A, eff June 14, 1997; 2012 Act No. 241, Section 1, eff June 18, 2012.

Editor’s Note

1979 Act No. 164 Part IV Section 2 provides that the six additional judges authorized by the amendment to Section 14‑5‑610 shall take office on July 1, 1979 and the General Assembly during its 1979 session after the effective date of the amendment shall begin the process of electing the additional circuit judges.

1982 Act No. 316, Section 2, effective April 9, 1982, provides that the numerical designations of the offices of at‑large circuit judges as provided in Section 14‑5‑610 shall be as follows on the effective date of the act:

Seat No. 1: occupied by the Honorable Ralph King Anderson.

Seat No. 2: occupied by the Honorable William Tindall Howell.

Seat No. 3: occupied by the Honorable James McCullum Morris.

Seat No. 4: formerly occupied by the Honorable Charles Victor Pyle, Jr.

Seat No. 5: occupied by the Honorable James Barnett Stephen.

Seat No. 6: occupied by the Honorable Marion Hardy Kinon.

1997 Act No. 155, Part II, Section 27C, provides as follows:

“SECTION 27C. Those additional circuit court and family court judges authorized by the provisions of subsections (A) and (B) of this section shall take office May 17, 1998, and the Judicial Merit Selection Commission on the effective date of this section shall begin the process of nominating candidates for these offices and the General Assembly shall then elect such judges from the nominees of the commission so that these judges may take office on May 17, 1998.”

2012 Act No. 241, Section 3, provides as follows:

“The Judicial Merit Selection Commission shall begin the process of nominating candidates for the judicial offices authorized by the provisions of SECTIONS 1 and 2, and the General Assembly then shall elect these judges from the nominees of the commission; except that, the nominating process may not begin until funding for the additional judges is provided in the general appropriations act.”

CROSS REFERENCES

Constitutional provisions pertaining to judicial circuits, see SC Const. Art. V, Section 13.

Library References

Courts 153.

Westlaw Topic No. 106.

Attorney General’s Opinions

Where there is an instance of filling two vacancies in the circuit court judgeships within the same judicial circuit at the same time, each judgeship should be treated as a separate office and one wishing to be a candidate for a judgeship would declare his candidacy for a particular judgeship rather than running “at large” from the circuit. 1987 Op.Atty.Gen. No. 87‑100, p 265 (December 14, 1987) 1987 WL 245508.

NOTES OF DECISIONS

In general 1

1. In general

Term of Court of General Sessions for Darlington County expired by operation of law on commencement of new term of Court of Common Pleas in Dillon County in same judicial circuit. State v. Best (S.C. 1972) 257 S.C. 361, 186 S.E.2d 272.

Judge who had imposed sentence while he was duly assigned and empowered to hold courts in Fourth Circuit had no power to alter, amend, modify or change sentence after reassignment and designation to hold courts in Seventh Circuit of which he was resident judge. State v. Best (S.C. 1972) 257 S.C. 361, 186 S.E.2d 272.

Constitutional provisions, creating office of circuit judge, prescribing his term and manner of fixing his compensation and prohibiting diminution thereof during his continuance in office, and provisions of permanent, unrepealed, and unmodified statutes, fixing amount of his compensation and designating time, manner, and rate of payment thereof, held to constitute appropriation required by Constitution, so as to render payment thereof by comptroller general and state treasurer from surplus funds in latter’s hands simple ministerial act compellable by mandamus. Grimball v. Beattie (S.C. 1934) 174 S.C. 422, 177 S.E. 668.

**SECTION 14‑5‑620.** Terms of court in first circuit.

The courts of the first judicial circuit shall be held as hereinafter provided.

(1) Calhoun County. ‑ The court of general sessions for Calhoun County shall be held at St. Matthews on the fourth Monday in May, the fourth Monday in September, and the first Monday in February. The court of common pleas for said county shall be held at St. Matthews on the fourth Monday in April and the first Monday in December for two weeks. And in addition to the terms of the court of common pleas above provided for there shall be terms of such court during each of the weeks in which there are fixed terms of court for the court of general sessions and immediately upon the conclusion of the business of the court of general sessions such court shall open and the petit jurors drawn to serve in the court of general sessions shall serve as petit jurors in the court of common pleas and any and all business may be transacted as at any other term of the court of common pleas.

(2) Dorchester County. ‑ The court of general sessions for Dorchester County shall be held at St. George on the third Monday in February, the second Monday in April, the fourth Monday in June and the second Monday in November for one week each. The court of common pleas for the county shall be held at St. George on the first and third Mondays in April, the third Monday in October and the first Monday in November for one week each. There shall also be a court of common pleas at St. George for one week commencing on the second Monday in July without a jury.

(3) Orangeburg County. ‑ The court of general sessions for the county of Orangeburg shall be held at Orangeburg the second Monday in January, the first Monday in May and the second Monday in September. The term shall be for two weeks for the January and September sessions. The term shall be for three weeks for the May session. The court of common pleas for the county of Orangeburg shall be held at Orangeburg on the second Monday in March for three weeks, the first Monday in June for three weeks, and a three‑week term commencing the first Monday in October, continuing for two weeks and then recommencing on the fourth Monday and continuing for an additional week.

HISTORY: 1962 Code Section 15‑262; 1952 Code Section 15‑262; 1942 Code Section 51; 1932 Code Section 51; Civ. P. ‘22 Section 49; Civ. P. ‘12 Section 18; Civ. P. ‘02 Section 18; 1886 (19) 473; 1898 (22) 684; 1901 (23) 624; 1908 (25) 1010; 1909 (26) 230; 1911 (27) 88; 1912 (28) 771, 772; 1913 (28) 117; 1915 (29) 387, 547; 1916 (29) 690; 1917 (30) 145; 1919 (31) 238; 1921 (32) 56; 1923 (33) 103; 1925 (34) 59; 1926 (34) 935; 1928 (35) 1204; 1931 (37) 123; 1934 (38) 1260; 1939 (41) 279; 1941 (42) 118; 1949 (46) 114; 1953 (48) 34; 1955 (49) 650; 1959 (51) 317; 1965 (54) 179; 1966 (54) 2298; 1967 (55) 89; 1970 (56) 2076, 2583; 1971 (57) 15, 526.

Library References

Courts 153.

Westlaw Topic No. 106.

**SECTION 14‑5‑630.** Terms of court in second circuit.

The courts of the second judicial circuit shall be held as hereinafter provided.

(1) Aiken County. ‑ The court of general sessions for Aiken County shall be held at Aiken on the second Monday in January for two weeks, the first Monday in May for three weeks and the first Monday in October for two weeks. The court of common pleas for the county shall be held at Aiken on the fourth Monday in January for a term of two weeks, on the fourth Monday in February for a term of two weeks, on the second Monday in April for a term of one week, on the third Monday in June for a term of two weeks and on the first Monday in November for a term of three weeks; provided, if Thanksgiving Day occurs during the third week of the session, the last week of the term shall be held during the following week.

(2) Bamberg County. ‑ The court of general sessions for Bamberg County shall be held at Bamberg on the third Monday in February for a term of one week and on the second Monday in September for a term of one week. The court of common pleas for the county shall be held at Bamberg on the third Monday in April for a term of two weeks, on the second Monday in July for a term of one week and on the third Monday in October for a term of two weeks. Immediately upon the conclusion of the business of the court of common pleas during the term commencing on the second Monday in July the court of general sessions shall open and the petit jurors drawn to serve in the court of common pleas shall serve as petit jurors in the court of general sessions and any and all business may be transacted during the July term as may be done during any other term of court of general sessions.

(3) Barnwell County. ‑ The court of general sessions for Barnwell County shall be held at Barnwell on the second Monday in February for a term of one week, on the fourth Monday in May for a term of one week and on the third Monday in September for a term of one week. The court of common pleas of the county shall be held at Barnwell on the second Monday in March for a term of two weeks, on the first Monday in June for a term of two weeks, immediately upon the conclusion of the business of the court of general sessions in September for the remainder of the week, and on the first Monday in December for a term of two weeks.

Immediately upon the conclusion of the business of the court of general sessions in September, the court of common pleas shall open, and the petit jurors drawn to serve in the court of general sessions shall serve as petit jurors in the court of common pleas, and any and all business may be transacted during the September term as may be done at any other term of the court of common pleas. Provided, the petit jury for this term of the court of common pleas shall not report for service before Wednesday.

HISTORY: 1962 Code Section 15‑263; 1952 Code Section 15‑263; 1942 Code Section 52; Civ. P. ‘22 Section 50; Civ. P. ‘12 Section 19; Civ. P. ‘02 Section 19; 1897 (22) 444; 1910 (26) 542; 1911 (27) 87; 1912 (27) 770; 1914 (28) 607; 1915 (29) 198; 1916 (29) 691, 699; 1917 (30) 135; 1919 (31) 43; 1920 (31) 855; 1924 (33) 930; 1926 (34) 991; 1933 (38) 320; 1935 (39); 308; 1937 (40) 573; 1941 (42) 118; 1948 (45) 2067; 1949 (46) 9; 1950 (46) 2290; 1951 (47) 31; 1953 (48) 22; 1961 (52) 409; 1964 (53) 2197; 1966 (54) 2382; 1969 (56) 292, 416, 621; 1975 (59) 41.

Library References

Courts 153.

Westlaw Topic No. 106.

NOTES OF DECISIONS

In general 1

1. In general

Code Civ.Proc.1922, Section 50 (See Code 1942, Section 52), fixes the time of holding the fall term of court for Aiken county on the fourth Monday in September. The regular judge was sick, and a special judge was appointed. Defendant’s trial began on Thursday of the second week, and a verdict was returned at 20 minutes past midnight of the following Saturday. Held, that the verdict was valid, notwithstanding a contention that the term had expired, in view of section 42 (See Code 1942, Section 44). State v. Gregory (S.C. 1923) 127 S.C. 87, 120 S.E. 499.

**SECTION 14‑5‑640.** Terms of court in third circuit.

The courts of the third judicial circuit shall be held as hereinafter provided.

(1) Clarendon County. ‑ The court of general sessions for Clarendon County shall be held at Manning on the fourth Monday in January, the third Monday in June and the second Monday in September, each for one week. The court of common pleas for the county shall be held at Manning on the first Monday in March for two weeks, the fourth Monday in April for one week, the fourth Monday in June for one week and the third Monday in October for two weeks.

(2) Lee County. ‑ The court of general sessions for Lee County shall be held at Bishopville on the first Monday in February, on the second Monday in June and on the first Tuesday after the first Monday in September, each for one week. The court of common pleas for the county shall be held at Bishopville on the fourth Monday in March for one week, the first Monday in May for one week, the fourth Monday in September for one week and the first Monday after the fourth Monday in November for one week. But there shall be no jury trials at the summer term of the court of general sessions unless a majority of the Lee County Bar Association deems it advisable and so notifies the judge of the circuit.

(3) Sumter County. ‑ The court of general sessions for Sumter County shall be held at Sumter on the second Monday in February for two weeks, on the second Monday in May for two weeks, on the fourth Monday in July for two weeks, on the first Monday in November for two weeks and on the second Monday in December for one week. The court of common pleas for the county shall be held at Sumter on the first Monday in January for three weeks, on the first Monday in April for three weeks, and on the first Monday after the fourth Monday in September for two weeks. Provided, that in each year that September has five Mondays the last term of common pleas court shall be for three weeks.

(4) Williamsburg County. ‑ The court of general sessions for Williamsburg County shall be held at Kingstree on the second Monday after the second Monday in February, on the first Monday in June and on the third Monday in September, each for one week. The court of common pleas shall be held at Kingstree on the third Monday in March for one week, on the fourth Monday in May for one week, on Wednesday first succeeding the first Monday in June for one week and on the third Monday in November for two weeks. But no jury trial of civil cases shall be had at the June term except by consent. The petit jurors for the first and third terms of the court of general sessions shall not be required to attend the first, second and fourth terms of the court of common pleas, but separate juries shall be drawn and summoned for such courts.

HISTORY: 1962 Code Section 15‑264; 1952 Code Section 15‑264; 1942 Code Section 53; 1932 Code Section 53; Civ. P. ‘22 Section 51; Civ. P. ‘12 Section 20; Civ. P. ‘02 Section 18; 1884 (18) 886; 1896 (22) 22; 1900 (23) 311; 1902 (23) 1194; 1910 (26) 541; 1914 (28) 531; 1916 (29) 693; 1924 (33) 1187; 1928 (35) 1288; 1929 (36) 79; 1931 (37) 320, 376; 1934 (38) 1466; 1936 (39) 1481; 1939 (41) 184; 1940 (41) 1771; 1941 (42) 118; 1944 (43) 1207; 1951 (47) 250; 1952 (47) 1939; 1953 (48) 168; 1954 (48) 1432; 1957 (50) 527; 1960 (51) 1515; 1962 (52) 2220; 1969 (56) 380; 1971 (57) 210; 1972 (57) 2329.

Library References

Courts 153.

Westlaw Topic No. 106.

**SECTION 14‑5‑650.** Terms of court in fourth circuit.

The courts of the fourth judicial circuit shall be held as follows:

(1) Courts of general sessions. ‑ At Chesterfield for Chesterfield County on the first Monday in February, the third Monday in May and the second Monday in October; at Bennettsville for Marlboro County on the second Monday in February, the first Monday in May and the second Monday in November; at Darlington for Darlington County on the third Monday in February, the second Monday in April, the third Monday in June and the third Monday in September; and at Dillon for Dillon County on the second Monday in March, the first Monday in June and the fourth Monday in September.

(2) Courts of common pleas. ‑ At Chesterfield for Chesterfield County on the first Monday in January, the third Monday in April, the fourth Monday in May, the first Monday in September, the fourth Monday in November for two weeks; at Bennettsville for Marlboro County on the fourth Monday in January, the first Monday in March, the first Monday in April, the second Monday in May, the first Monday in October and the second Monday in December; at Darlington for Darlington County on the second Monday in January for two weeks, the third Monday in March for two weeks, the fourth Monday in April, the fourth Monday in June, the fourth Monday in October for two weeks; at Dillon for Dillon County on the fourth Monday in February, the second Monday in June, the second Monday in September, the third Monday in October and the third Monday in November.

Provided, that when New Year’s Day falls on the first Monday in January, the January term of the court of common pleas for Chesterfield County shall convene on the first Tuesday; provided, further, that the September term of the court of common pleas for Chesterfield County shall convene on the first Tuesday; and provided, further, that when Thanksgiving falls within the week of the fourth Monday in November, the November term of the court of common pleas for Chesterfield County shall adjourn for that week on Wednesday.

(3) Use of portion of May or June term of court of common pleas in all four counties in the circuit by court of general sessions. ‑ In all four counties in the circuit when matters before the court of common pleas during the circuit court term in May or June have been disposed of, the balance of the term may be used by the court of general sessions to dispose of matters brought before it.

HISTORY: 1962 Code Section 15‑266; 1952 Code Section 15‑266; 1942 Code Section 54; 1932 Code Section 54; Civ. P. ‘22 Section 52; Civ. P. ‘12 Section 21; Civ. P. ‘02 Section 21; 1883 (18) 305; 1887 (19) 999; 1897 (22) 404; 1901 (23) 627; 1910 (26) 544; 1911 (27) 80; 1922 (32) 780; 1924 (33) 932; 1925 (34) 233; 1932 (37) 1213; 1934 (38) 1400; 1935 (39) 440; 1937 (40) 573; 1940 (41) 1646, 1754, 1844; 1941 (42) 118, 151; 1944 (43) 1359; 1950 (46) 1983; 1951 (47) 51; 1953 (48) 32; 1955 (49) 473, 669; 1959 (51) 322; 1962 (52) 2152, 2281; 1965 (54) 562; 1967 (55) 716; 1969 (56) 423; 1970 (56) 2381.

Library References

Courts 153.

Westlaw Topic No. 106.

NOTES OF DECISIONS

In general 1

1. In general

Term of Court of General Sessions for Darlington County expired by operation of law on commencement of new term of Court of Common Pleas in Dillon County in same judicial circuit. State v. Best (S.C. 1972) 257 S.C. 361, 186 S.E.2d 272.

Judge who had imposed sentence while he was duly assigned and empowered to hold courts in Fourth Circuit had no power to alter, amend, modify or change sentence after reassignment and designation to hold courts in Seventh Circuit of which he was resident judge. State v. Best (S.C. 1972) 257 S.C. 361, 186 S.E.2d 272.

Defendants and state were entitled to have sentences determined and finalized at term of court, and efforts of judge to keep cases under review, with view to possible subsequent modification or reduction of sentences, were based on misconception of law. State v. Best (S.C. 1972) 257 S.C. 361, 186 S.E.2d 272.

Judge who had imposed sentence had no power to alter, amend, modify or change same after expiration of term of court at which sentence was imposed. State v. Best (S.C. 1972) 257 S.C. 361, 186 S.E.2d 272.

**SECTION 14‑5‑660.** Time when pleadings and other papers are returnable in fourth circuit; notice of terms.

All recognizances, pleadings, notices and papers shall be returnable and applicable to the terms of the court as fixed by Section 14‑5‑650 and the clerk of the court for each county in the fourth judicial circuit shall give two weeks’ notice of each and every term of the court in some newspaper published in the county, stating the day of the month on which the next court will open for the county.

HISTORY: 1962 Code Section 15‑268; 1952 Code Section 15‑268; 1942 Code Section 54; 1932 Code Section 54; Civ. P. ‘22 Section 52; Civ. P. ‘12 Section 21; Civ. P. ‘02 Section 21; 1883 (18) 305; 1887 (19) 999; 1897 (22) 404; 1901 (23) 627; 1910 (26) 544; 1911 (27) 80; 1922 (32) 780; 1924 (33) 932; 1925 (34) 233; 1932 (37) 1213; 1934 (38) 1400; 1935 (39) 440; 1937 (40) 573; 1940 (41) 1646, 1754, 1844; 1941 (42) 118, 151.

Library References

Courts 153.

Westlaw Topic No. 106.

**SECTION 14‑5‑670.** Terms of court in fifth circuit.

The courts of the fifth judicial circuit shall be held as hereinafter provided.

(1) Kershaw County. ‑ The court of general sessions for Kershaw County shall be held at Camden on the third Monday in February, the third Monday in May and the fourth Monday in October. The court of common pleas for said county shall be held at Camden on the fourth Monday in February, the first Monday in May and the first Monday in November. The terms of the court of common pleas shall continue for two weeks each.

(2) Richland County. ‑ The court of general sessions for Richland County shall be held at Columbia on the second Monday in January for two weeks, on the second Monday in April for two weeks, on the third Monday in June for two weeks, on the Tuesday following the first Monday in September for three weeks and on the second Monday in December for two weeks. The court of common pleas for the county shall be held in Columbia on the fourth Monday in January for two weeks, on the second Monday in March for three weeks, on the first Monday in June for two weeks, on the fourth Monday in September for three weeks and on the third Monday in November for three weeks, two weeks of which shall be for the disposal of jury matters and the other week, which includes Thanksgiving Day, for the disposal of motions, equity matters and other matters not requiring the attendance of a jury.

(3) Additional terms for certain matters. ‑ In addition to the terms of court hereinbefore set forth, there shall be held additional terms of court, without juries, to hear equity matters and all matters not requiring jury trials, such terms to be held as follows:

(a) Richland County: On the third Monday in February, on the third Monday in May and on the fourth Monday in October, each for one week; and

(b) Kershaw County: On the second Monday in January, on the second Monday in April and on the second Monday in September, each for one week.

The terms of court provided for in this paragraph (3) shall be presided over by a judge other than the regularly assigned judge, to be selected by the Chief Justice from the regular or retired circuit judges, or he may select a special judge, qualified by law, to hold such terms. The terms of court provided for in this paragraph (3), if found at any time to be unnecessary, shall be called off as the law now provides for other terms.

HISTORY: 1962 Code Section 15‑269; 1952 Code Section 15‑269; 1942 Code Section 55; 1932 Code Sections 55, 986; Civ. P. ‘22 Sections 53, 77; Civ. P. ‘12 Section 22; Civ. P. ‘02 Section 22; 1877 (16) 299; 1896 (22) 24; 1899 (23) 33; 1910 (26) 541; 1912 (27) 768; 1913 (28) 13; 1915 (29) 175; 1919 (31) 18; 1922 (32) 799; 1924 (33) 933; 1926 (34) 991, 999; 1938 (40) 1918; 1939 (41) 424; 1940 (41) 1699; 1941 (42) 118; 1948 (45) 1781; 1953 (48) 187; 1957 (50) 575; 1959 (51) 23; 1961 (52) 501.

Library References

Courts 153.

Westlaw Topic No. 106.

**SECTION 14‑5‑680.** Designation of terms in fifth circuit.

The courts held under the provisions of Section 14‑5‑670 in the fifth circuit during the first four months of the year shall be known as the spring term of the court of general sessions and the spring term of the court of common pleas, during the next four months as the summer terms of said courts and during the last four months as the fall terms of said courts. And the two sessions of the court of common pleas therein appointed for Richland County during the spring term and the two sessions of said court for Richland County herein appointed during the fall term shall be known as the first and second sessions, respectively, of such terms.

HISTORY: 1962 Code Section 15‑270; 1952 Code Section 15‑270; 1942 Code Section 55; 1932 Code Sections 55, 986; Civ. P. ‘22 Sections 53, 77; Civ. P. ‘12 Section 22; Civ. P. ‘02 Section 22; 1877 (16) 299; 1896 (22) 24; 1899 (23) 33; 1910 (26) 541; 1912 (27) 768; 1913 (28) 13; 1915 (29) 175; 1919 (31) 18; 1922 (32) 799; 1924 (33) 933; 1926 (34) 991, 999; 1938 (40) 1918; 1939 (41) 424; 1940 (41) 1699; 1941 (42) 118; 1948 (45) 1781.

Library References

Courts 153.

Westlaw Topic No. 106.

**SECTION 14‑5‑690.** Days for pretrial and nonjury matters in fifth circuit.

The first day of each term of the court of common pleas provided for in the fifth circuit shall be set aside for pretrial motions and all matters not requiring a jury, except those two terms in Richland County of which an entire week is designated for that purpose as herein provided for. When the first day of the term of the court of common pleas is set aside for pre‑trial motions and matters not requiring a jury, as herein provided, the jury for said court of common pleas shall not be summoned to appear on the first day of the term but shall be summoned to appear on the second day of the term.

HISTORY: 1962 Code Section 15‑272; 1952 Code Section 15‑272; 1942 Code Section 55; 1932 Code Sections 55, 986; Civ. P. ‘22 Sections 53, 77; Civ. P. ‘12 Section 22; Civ. P. ‘02 Section 22; 1877 (16) 299; 1896 (22) 24; 1899 (23) 33; 1910 (26) 541; 1912 (27) 768; 1913 (28) 13; 1915 (29) 175; 1919 (31) 18; 1922 (32) 799; 1924 (33) 933; 1926 (34) 991, 999; 1938 (40) 1918; 1939 (41) 424; 1940 (41) 1699; 1941 (42) 118; 1948 (45) 1781.

CROSS REFERENCES

Pretrial procedures under South Carolina Rules of Civil Procedure, see Rule 16, SCRCP.

Library References

Courts 153.

Westlaw Topic No. 106.

**SECTION 14‑5‑700.** Terms of court in sixth circuit.

The courts of the sixth judicial circuit shall be held for a term of one week, unless otherwise specified, as hereinafter provided.

(1) Chester County. ‑ The court of general sessions for the county of Chester shall be held at Chester on the second Monday in January, on the first Monday in March, the third Monday in June and the second Monday in October. The court of common pleas for the county shall be held at Chester the third Monday in February, the second Monday in April, the fourth Monday in May, the fourth Monday in September and the first Monday in December.

(2) Fairfield County. ‑ The court of general sessions for Fairfield County shall be held at Winnsboro on the fourth Monday in January, the second Monday in June, the Tuesday following the first Monday in September, and on the first Monday in November. The court of common pleas for the county shall be held at Winnsboro on the second Monday in March, the third Monday in May, the first Monday in October and the fourth Monday in November.

(3) Lancaster County. ‑ The court of general sessions for Lancaster County shall be held at Lancaster on the first Monday in February for a two‑week term, the fourth Monday in April, the third Monday in September and the second Monday in November for a two‑week term. The court of common pleas shall be held in Lancaster beginning on the third Monday in January, the third Monday in March, the first Monday in April, the second Monday in May, the second Monday in September, the fourth Monday in October and the second Monday in December.

HISTORY: 1962 Code Section 15‑274; 1952 Code Section 15‑274; 1942 Code Section 56; 1932 Code Section 56; Civ. P. ‘22 Section 54; Civ. P. ‘12 Section 23; Civ. P. ‘02 Section 23; 1885 (19) 223; 1899 (22) 34; 1900 (23) 312; 1907 (25) 617; 1911 (27) 64; 1916 (29) 698; 1922 (32) 838; 1925 (34) 29; 1928 (35) 1216; 1929 (36) 41; 1930 (36) 1098, 1264; 1933 (38) 136; 1934 (38) 1199, 1254; 1935 (39) 237; 1937 (40) 452; 1938 (40) 1698; 1941 (42) 118; 1944 (43) 1351; 1948 (45) 1691; 1949 (46) 254, 338, 571; 1950 (46) 2222; 1953 (48) 253; 1955 (49) 148; 1958 (50) 1963; 1962 (52) 2136; 1965 (54) 192; 1966 (54) 2338, 2627; 1967 (55) 91; 1968 (55) 2276; 1970 (56) 2340, 2500.

Library References

Courts 153.

Westlaw Topic No. 106.

**SECTION 14‑5‑710.** Terms of court in seventh circuit.

The courts of the seventh judicial circuit shall be held as hereinafter provided.

(1) Cherokee County. ‑ The court of common pleas for Cherokee County shall be held at Gaffney on the first Monday of March for two weeks, on the first Monday of May for two weeks, and on the first Monday of November for two weeks. The court of general sessions for Cherokee County shall be held at Gaffney on the third Monday of March for one week, on the third Monday of May for one week, on the second Monday of September for two weeks, and on the third Monday of November for two weeks.

(2) Spartanburg County. ‑ The court of common pleas for Spartanburg County shall be held at Spartanburg on the fourth Monday in January for three weeks, on the fourth Monday of March for four weeks, on the fourth Monday of May for three weeks, on the third Monday of July for one week (other than for jury trials), and on the fourth Monday of September for three weeks. The court of general sessions for Spartanburg County shall be held at Spartanburg on the second Monday of January for two weeks, on the fourth Monday of February for one week, on the fourth Monday after the fourth Monday of March for one week, on the third Monday after the fourth Monday of May for one week, and on the third Monday after the fourth Monday of September for three weeks.

HISTORY: 1962 Code Section 15‑275; 1952 Code Section 15‑275; 1942 Code Section 57; 1932 Code Sections 57, 987; Civ. P. ‘22 Sections 55, 78; Civ. P. ‘12 Section 24; Civ. P. ‘02 Section 24; 1889 (20) 359; 1896 (22) 25; 1898 (22) 685; 1899 (23) 35; 1906 (25) 48, 49; 1908 (25) 1011; 1913 (28) 30; 1914 (28) 602; 1916 (29) 695; 1917 (30) 137; 1919 (31) 186; 1922 (32) 815; 1931 (37) 256; 1933 (38) 189; 1934 (38) 1240; 1935 (39) 405; 1937 (40) 106; 1941 (42) 118; 1944 (43) 1233; 1965 (54) 543; 1966 (54) 2338; 1967 (55) 237; 1968 (55) 2712.

Library References

Courts 153.

Westlaw Topic No. 106.

NOTES OF DECISIONS

In general 1

1. In general

Where statutory March term of court of common pleas ended March 19, and term of court of general sessions convened on March 21, third week fixed by statute for holding court of general sessions was not a continuation of preceding term of the court of common pleas, and under statute providing that notice of intention to appeal to Supreme Court must be filed within 10 days after rising of circuit court, plaintiff’s notice of intention to appeal served on March 31 was not within time. Stroup v. Duke Power Co. (S.C. 1949) 216 S.C. 79, 56 S.E.2d 745. Appeal And Error 428(2); Courts 65

**SECTION 14‑5‑720.** Continuing general sessions term in seventh circuit.

If the business of the court of general sessions is not concluded at the end of any week, except the second week in January at Spartanburg, the petit jury drawn for that term of the sessions court shall be continued for the next week or until the business of the sessions court is completed.

HISTORY: 1962 Code Section 15‑276; 1952 Code Section 15‑276; 1942 Code Section 57; 1932 Code Sections 57, 987; Civ. P. ‘22 Sections 55, 78; Civ. P. ‘12 Section 24; Civ. P. ‘02 Section 24; 1889 (20) 359; 1896 (22) 25; 1898 (22) 685; 1899 (23) 35; 1906 (25) 48, 49; 1908 (25) 1011; 1913 (28) 30; 1914 (28) 602; 1916 (29) 695; 1917 (30) 137; 1919 (31) 186; 1922 (32) 815; 1931 (37) 256; 1933 (38) 189; 1934 (38) 1240; 1935 (39) 405; 1937 (40) 106; 1941 (42) 118.

Library References

Courts 153.

Westlaw Topic No. 106.

NOTES OF DECISIONS

In general 1

1. In general

The general sessions court of Spartanburg County should not be continued beyond the first week, if such continuation would result in depriving another county of a regular term of its court. State v. Henderson (S.C. 1926) 136 S.C. 363, 134 S.E. 364.

**SECTION 14‑5‑730.** Terms of court in eighth circuit.

The courts of the eighth judicial circuit shall be held as hereinafter provided.

(1) Abbeville County. ‑ The court of general sessions for Abbeville County shall be held at Abbeville on the first Monday in February, the first Monday in May, and the first Monday in September, in each case for one week. The court of common pleas for the county shall be held at Abbeville on the Monday following the fourth Monday in March, the fourth Monday in June, the second Monday in October, and the second Monday in December, in each case for one week.

(2) Greenwood County. ‑ The court of general sessions for Greenwood County shall be held at Greenwood for a one‑week term on the second Monday in February, the second Monday in April, the second Monday in May and the second Monday in September. The court of common pleas for the county shall be held at Greenwood for a two‑week term beginning on the second Monday in January, for a one‑week term beginning the second Monday in March, the third Monday in April, the first Monday in June, and for a two‑week term beginning the second Monday in November.

(3) Laurens County. ‑ The court of general sessions for Laurens County shall be held at Laurens on the fourth Monday in February, the fourth Monday in May, and for a two‑weeks term beginning the fourth Monday in September. The court of common pleas for the county shall be held at Laurens on the third Monday in March for two weeks, the second Monday in June for one week, and the fourth Monday in October for two weeks.

(4) Newberry County. ‑ The court of general sessions for Newberry County shall be held at Newberry on the third Monday in February, the third Monday in May, the third Monday in September and the fourth Monday in November, in each case for one week. The court of common pleas for the county shall be held at Newberry on the fourth Monday in January, the fourth Monday in April, the third Monday in June, the third Monday in October, and the first Monday in December, in each case for one week.

HISTORY: 1962 Code Section 15‑277; 1952 Code Section 15‑277; 1942 Code Section 58; 1932 Code Section 58; Civ. P. ‘22 Section 56; Civ. P. ‘12 Section 25; Civ. P. ‘02 Sections 24, 25; 1889 (20) 360; 1891 (20) 1113; 1896 (22) 26; 1899 (23) 37; 1900 (23) 314; 1901 (23) 629; 1910 (26) 538; 1916 (29) 696; 1919 (31) 113; 1920 (31) 807; 1922 (32) 1039; 1925 (34) 277; 1928 (35) 1152; 1932 (37) 1390; 1934 (38) 1446; 1939 (41) 485; 1941 (42) 118, 129; 1947 (45) 521; 1951 (47) 292; 1953 (48) 311; 1954 (48) 1538; 1955 (49) 137; 1961 (52) 71, 578; 1963 (53) 543; 1967 (55) 210; 1969 (56) 739; 1970 (56) 1912.

Library References

Courts 153.

Westlaw Topic No. 106.

**SECTION 14‑5‑740.** Terms of court in ninth circuit.

The courts of the ninth judicial circuit shall be held as hereinafter provided.

(1) Berkeley County. ‑ The court of general sessions for Berkeley County shall be held at Moncks Corner on the second Monday in May and on the second Monday in October, in each case for one week. The court of common pleas for the county shall be held at Moncks Corner on the third Monday in March for one week, the second Monday in June for two weeks and on the fourth Monday in September for two weeks.

(2) Charleston County. ‑ The court of general sessions for Charleston County shall be held at Charleston on the first Monday in January for one week, on the first Monday in March for two weeks, on the fourth Monday in May for two weeks, on the second Monday in September for two weeks, and on the first Monday in December for two weeks. The court of common pleas for the county shall be held at Charleston on the second Monday in January for one week for the disposal of motions, equity matters, and any other matters not requiring the attendance of a jury, on the first Monday in February for four weeks for the disposal of jury matters, on the fourth Monday in March for five weeks for jury matters, on the second Monday in July for three weeks for jury matters and on the third Monday in October for six weeks, the first of which shall be for the disposal of motions, equity matters, and any other matters not requiring the attendance of a jury, and the remaining five weeks for the disposal of jury matters.

HISTORY: 1962 Code Section 15‑278; 1952 Code Section 15‑278; 1942 Code Section 59; 1932 Code Section 59; Civ. P. ‘22 Section 57; Civ. P. ‘12 Section 26; Civ. P. ‘02 Section 18; 1884 (18) 686; 1887 (19) 987; 1894 (21) 717; 1898 (22) 683; 1899 (23) 258; 1900 (23) 309; 1909 (26) 163; 1913 (28) 19, 31; 1915 (29) 179; 1917 (30) 138; 1920 (31) 725; 1921 (32) 203; 1923 (33) 128; 1925 (34) 280; 1926 (34) 1047, 1048; 1930 (36) 1135; 1931 (37) 245; 1941 (42) 118; 1947 (45) 525; 1953 (48) 64; 1954 (48) 1446; 1959 (51) 96; 1967 (55) 313; 1972 (57) 2179.

Library References

Courts 153.

Westlaw Topic No. 106.

**SECTION 14‑5‑750.** Terms of court in tenth circuit.

The courts of the tenth judicial circuit shall be held as hereinafter provided.

(1) Anderson County. ‑ The court of general sessions for Anderson County shall be held at Anderson on the first Monday in February for two weeks, the second Monday in May for two weeks, the first Monday in September for two weeks and the third Monday in November for two weeks. The court of common pleas for the county shall be held at Anderson on the second Monday in January for three weeks, the second Monday in March for three weeks, the second Monday in April for two weeks, the second Monday in June for two weeks, the first Monday in October for three weeks and the first Monday in December for two weeks.

(2) Oconee County. ‑ The court of general sessions for Oconee County shall be held at Walhalla on the fourth Monday in February, the week immediately following the May term of the court of common pleas and the first Monday in November. The court of common pleas for the county shall be at Walhalla on the third Monday in February, the fourth Monday in May and the third Monday in September.

HISTORY: 1962 Code Section 15‑279; 1952 Code Section 15‑279; 1942 Code Section 60; 1932 Code Section 60; Civ. P. ‘22 Section 58; Civ. P. ‘12 Section 27; Civ. P. ‘02 Section 25; 1908 (25) 1013; 1912 (27) 549; 1913 (28) 138; 1914 (28) 608; 1941 (42) 118; 1954 (48) 1749; 1956 (49) 1732; 1962 (52) 1699; 1964 (53) 2091; 1969 (56) 309; 1971 (57) 29, 876.

Library References

Courts 153.

Westlaw Topic No. 106.

**SECTION 14‑5‑760.** Terms of court in eleventh circuit.

The courts of the eleventh judicial circuit shall be held as hereinafter provided.

(1) Edgefield County. ‑ The court of general sessions for Edgefield County shall be held at Edgefield on the first Monday in March, the second Monday in July, and the fourth Monday in October. The court of common pleas shall be held at Edgefield on the second Monday in March, the fourth Monday in June, and the first Monday in November. Each of these terms shall be for one week.

(2) Lexington County. ‑ The court of general sessions for Lexington County shall be held at Lexington on the third Monday in January, the fourth Monday in May, and the Tuesday following the first Monday in September. Each term of the court of general sessions shall be for two weeks. The court of common pleas shall be held at Lexington on the first Monday in April, the third Monday in September and the fourth Monday in November. Each of the terms of the court of common pleas shall be for three weeks, except the term beginning the first Monday in April, which shall be for four weeks.

(3) McCormick County. ‑ The court of general sessions for McCormick County shall be held at McCormick on the first Monday in February, the second Monday in February, the second Monday in June, the third Monday in June, the second Monday in October and the third Monday in October. Each term shall be for one week. If a full week during any term is not required to conclude the work of the court of general sessions, the court of common pleas shall be held for the remainder of such term.

(4) Saluda County. ‑ The court of general sessions in Saluda County shall be held at Saluda on the fourth Monday in February, the third Monday in May and the third Monday in November. The court of common pleas shall be held immediately following each term of general sessions court as follows: on the fourth Monday in February, the third Monday in May and the third Monday in November. Each of these terms shall be for one week.

HISTORY: 1962 Code Section 15‑280; 1952 Code Section 15‑280; 1942 Code Section 61; 1932 Code Section 61; Civ. P. ‘22 Section 59; Civ. P. ‘12 Section 28; Civ. P. ‘02 Section 22; 1877 (16) 299; 1896 (22) 24; 1897 (22) 433; 1899 (23) 33, 685; 1909 (26) 169; 1916 (29) 717; 1917 (30) 53; 1930 (36) 1111, 1170; 1936 (39) 1332; 1941 (42) 118, 164; 1945 (44) 5; 1948 (45) 1854; 1954 (48) 1418, 1473; 1955 (49) 312, 313; 1957 (50) 572; 1963 (53) 234; 1965 (54) 569; 1966 (54) 2021; 1971 (57) 763.

Library References

Courts 153.

Westlaw Topic No. 106.

**SECTION 14‑5‑770.** Call of calendars in eleventh circuit.

The presiding judge shall call calendars two and three peremptorily on Wednesday after the opening of the court of general sessions or as soon before or thereafter as there may be time for the same and the court deems it proper in the counties of Lexington and Saluda, but in no event shall the calling of said calendars or the hearing of cases thereon be allowed to interfere with the business of the court of general sessions.

HISTORY: 1962 Code Section 15‑281; 1952 Code Section 15‑281; 1942 Code Section 61; 1932 Code Section 61; Civ. P. ‘22 Section 59; Civ. P. ‘12 Section 28; Civ. P. ‘02 Section 22; 1877 (16) 299; 1896 (22) 24; 1897 (22) 433; 1899 (23) 33, 685; 1909 (26) 169; 1916 (29) 717; 1917 (30) 53; 1930 (36) 1111, 1170; 1936 (39) 1332; 1941 (42) 118, 164.

CROSS REFERENCES

Common pleas calendar under South Carolina Rules of Civil Procedure, see Rule 79, SCRCP.

Library References

Courts 153.

Westlaw Topic No. 106.

**SECTION 14‑5‑780.** Terms of court in twelfth circuit.

The courts of the twelfth judicial circuit shall be held as hereinafter provided.

(1) Marion County. ‑ The court of general sessions for Marion County shall be held at Marion on the third Monday in February, on the third Monday in April, on the fourth Monday in June, and on the fourth Monday in October, in each case for one week. The court of common pleas for the county shall be held at Marion on the fourth Monday in February for one week, on the third Monday in March for one week, on the first Monday in May for one week, on the second Monday in May for one week, on the third Monday in June for one week, on the third Monday in September for one week, on the fourth Monday in September for one week and on the fourth Monday in November for two weeks.

(2) Florence County. ‑ The court of general sessions for Florence County shall be held at Florence on the third Monday in January for one week, on the fourth Monday in January for one week, on the first Monday in March for one week, on the second Monday in March for one week, on the fourth Monday in April for one week, on the first Monday in June for one week, on the second Monday in June for one week, on the first Monday in October for one week, on the second Monday in October for one week and on the second Monday in December for one week. The court of common pleas for the county shall be held at Florence on the first Monday in January for one week, on the second Monday in January for one week, on the first Monday in February for one week, on the second Monday in February for one week, on the first Monday in April for one week, on the second Monday in April for one week, on the third Monday in May for one week, on the fourth Monday in May for one week, on the first Monday in September for one week, on the second Monday in September for one week, on the first Monday in November for one week and on the second Monday in November for one week. Provided, that the first day of each two‑week term shall be for equity, nonjury matters and call of calendar, only.

HISTORY: 1962 Code Section 15‑282; 1952 Code Section 15‑282; 1942 Code Section 62; 1932 Code Section 62; Civ. P. ‘22 Section 60; Civ. P. ‘12 Section 29; Civ. P. ‘02 Sections 20, 21; 1909 (26) 23; 1915 (29) 71; 1919 (31) 76; 1920 (31) 718; 1923 (33) 140; 1924 (33) 934; 1928 (35) 1250; 1932 (37) 1375; 1934 (38) 1232, 1242; 1936 (39) 1336; 1939 (41) 238; 1941 (42) 118; 1956 (49) 1666; 1957 (50) 148; 1962 (52) 2147, 2207; 1963 (52) 99; 1968 (55) 2556, 2771, 3071.

Library References

Courts 153.

Westlaw Topic No. 106.

**SECTION 14‑5‑790.** Terms of court in thirteenth circuit.

The courts of the thirteenth judicial circuit shall be held as hereinafter provided.

(1) Greenville County.—(a) The court of common pleas for Greenville County shall be held at Greenville on the fourth Monday in January for four weeks, on the fourth Monday in March with two weeks for jury trials and one week for equity cases, followed by two weeks of jury trials, on the third Monday in May for two weeks, the third Monday in June for two weeks, the second Monday in September for two weeks, the second Monday in October for two weeks and the second Monday in November with three weeks for jury trials and one week for equity cases. The court of general sessions for the county shall be held at Greenville on the second Monday in January for two weeks, the second Monday in March for two weeks, the first Monday in May for two weeks, the last Monday in August for two weeks, the fourth Monday in October for two weeks and the first Monday in December for one week.

(b) In addition to the terms of court hereinabove set forth, there shall be held additional terms of the court of common pleas for Greenville County to hear equity matters and any other nonjury matters, as follows: On the second Monday in January, for one week, on the second Monday in May, for one week, and on the first Tuesday in September, for one week.

(c) The terms of court provided for in paragraph (b) of this subsection shall be presided over by a judge other than the resident judge of the thirteenth judicial circuit or the presiding judge regularly assigned at that time to said circuit. Such judge shall be selected by the Chief Justice of the Supreme Court from among the regular circuit judges or the retired circuit judges or the lawyers admitted to practice in the Supreme Court. If found at any time to be unnecessary the terms of court provided for in paragraph (b) of this subsection shall be cancelled in the manner provided by law for cancellation of other terms.

(2) Pickens County. ‑ The court of general sessions for Pickens County shall be held at Pickens on the third Monday in February for one week, the first Monday in June for one week and the fourth Monday in September for one week. The court of common pleas for said county shall be held at Pickens on the fourth Monday in February for two weeks, the second Monday in June for one week and the first Monday in October for one week.

HISTORY: 1962 Code Section 15‑285; 1952 Code Section 15‑285; 1942 Code Section 63; 1932 Code Section 63; Civ. P. ‘22 Section 61; Civ. P. ‘12 Section 27; Civ. P. ‘02 Section 25; 1883 (18) 462; 1884 (18) 886; 1896 (22) 26; 1900 (23) 314; 1901 (23) 629; 1910 (26) 542; 1922 (32) 841; 1923 (33) 101; 1927 (35) 78; 1929 (36) 38; 1932 (37) 1335; 1937 (40) 347; 1959 (51) 135; 1964 (53) 2126, 2435; 1967 (55) 921.

Library References

Courts 153.

Westlaw Topic No. 106.

**SECTION 14‑5‑800.** Terms of court in fourteenth circuit.

The courts in the fourteenth judicial circuit shall be held as hereinafter provided.

(1) Allendale County. ‑ The courts of general sessions for Allendale County shall be held at Allendale on the third Monday in April for one week, on the second Monday in July for one week and on the third Monday in October for one week. The court of common pleas for the county shall be held at Allendale on the fourth Monday in April for two weeks and on the second Monday in November for one week.

In addition to the terms of the court of common pleas above provided for there shall be terms of such court during each of the weeks in which there are fixed terms of court for the court of general sessions, and immediately upon the conclusion of the business of the court of general sessions the court of common pleas shall open, and the petit jurors drawn to serve in the court of general sessions shall serve as petit jurors in the court of common pleas, and at such terms any and all business may be transacted as may be done at any other term of the court of common pleas.

(2) Beaufort County. ‑ The courts of general sessions for Beaufort County shall be held at Beaufort on the first Monday in March for one week, on the third Monday in June and continuing until the Saturday before the second Monday in July and on the third Monday in November for one week. The courts of common pleas for the county shall be held at Beaufort on the third Monday in January and continue until the Saturday before the first Monday in February, on the third Monday in March and continue until the Saturday before the first Monday in April, on the third Monday in June as soon as the court of general sessions shall have concluded during the remainder of the term, on the third Monday in July for two weeks, on the second Monday in September for one week and on the first Monday in November for one week.

(3) Colleton County. ‑ The courts of general sessions for Colleton County shall be held at Walterboro on the second Monday in January for one week, on the first Monday in April for two days, on the second Monday in June for one week and on the third Monday in September for one week. The courts of common pleas for the county shall be held at Walterboro on Wednesday following the first Monday in April for the remainder of the week, on the second Monday in April for one week, on the fourth Monday in May for one week, on the fourth Monday in October and continue until the Saturday before the first Monday in November and on the second Monday in December for one week. At the court of general sessions to be held on the second Monday in January of each year at Walterboro the court may dispose of equity cases, motions, demurrers and nonjury matters arising in any of the several counties of the fourteenth judicial circuit.

(4) Hampton County. ‑ The courts of general sessions for Hampton County shall be held at Hampton on the third Monday in February, on the first Monday in June and on the second Monday in October, in each case for one week. The court of common pleas for the county shall be held at Hampton on the first Monday in February for two weeks, the second Monday in March for one week, immediately upon the conclusion of the business of the court of general sessions in June for the remainder of the week and on the fourth Monday in September and continue until the Saturday before the second Monday in October.

(5) Jasper County. ‑ The courts of general sessions for Jasper County shall be held at Ridgeland on the fourth Monday in February, the third Monday in May, and the fourth Monday in November, in each case for one week. The courts of common pleas for the county shall be held at Ridgeland as soon as the courts of general sessions shall have concluded, except that during the week commencing the third Monday in November there shall be no regular term of the court of common pleas. There shall also be terms of the court of common pleas for the county on the second Monday in May and the first Monday in December, in each case for one week, and the Tuesday following the first Monday in September for the remainder of the week.

HISTORY: 1962 Code Section 15‑286; 1952 Code Section 15‑286; 1942 Code Section 64; 1932 Code Section 64; Civ. P. ‘22 Section 62; Civ. P. ‘12 Sections 19, 26; Civ. P. ‘02 Section 19; 1883 (18) 462; 1884 (18) 886; 1896 (22) 20; 1900 (23) 310; 1901 (23) 624; 1910 (26) 542; 1911 (27) 87; 1912 (27) 580, 770; 1913 (28) 19, 31; 1914 (28) 607; 1915 (29) 79, 198; 1916 (29) 700; 1917 (30) 37, 49; 1920 (31) 919; 1922 (32) 929; 1923 (33) 182; 1925 (34) 18; 1926 (34) 929; 1928 (35) 1179, 1264; 1929 (36) 26; 1931 (37) 257; 1934 (38) 1539; 1935 (39) 87; 1941 (42) 118; 1945 (44) 152; 1950 (46) 2204; 1952 (47) 2035; 1953 (48) 440; 1955 (49) 241, 305; 1958 (50) 1853; 1960 (51) 1498, 1528; 1963 (53) 176; 1964 (53) 1728, 2350; 1965 (54) 188, 558; 1966 (54) 2151; 1970 (56) 2285, 2597; 1971 (57) 886; 1973 (58) 230.

Library References

Courts 153.

Westlaw Topic No. 106.

**SECTION 14‑5‑810.** Terms of court in fifteenth circuit.

The courts of the fifteenth judicial circuit shall be held as hereinafter provided.

(1) Horry County. The Court of General Sessions for Horry County shall be held at Conway on the second Monday in January for one week, on the first Monday in March for two weeks, on the first Monday in June for two weeks, and on the first Monday in October for two weeks. The Court of Common Pleas for Horry County shall be held at Conway on the first Monday in January for one week, on the first Monday in February for two weeks, on the first Monday in April for two weeks, on the first Monday in May for two weeks, on the first Monday in September for two weeks, on the first Monday in November for one week, and on the third Monday in November for two weeks, and on the second Monday in December for one week.

(2) Georgetown County. The Court of General Sessions for Georgetown County shall be held at Georgetown on the third Monday in March for one week, on the third Monday in June for one week, on the third Monday in September for one week and on the first Monday in December for one week. The Court of Common Pleas for Georgetown County shall be held at Georgetown on the third Monday in January for two weeks, on the third Monday in February for two weeks, on the fourth Monday in March for one week, on the third Monday in April for two weeks, on the third Monday in May for one week, on the fourth Monday in September for one week, on the third Monday in October for two weeks, and on the second Monday in November for one week. Provided, however, that beginning on the fourth Monday in March and September, the court of general sessions may be concurrently held with the court of common pleas for a period of one week.

HISTORY: 1962 Code Section 15‑289; 1962 (52) 2147; 1963 (53) 160; 1973 (58) 197; 1975 (59) 115.

Library References

Courts 153.

Westlaw Topic No. 106.

**SECTION 14‑5‑820.** Terms of court in sixteenth circuit.

The courts of the sixteenth judicial circuit shall be held for a term of one week, unless otherwise specified, as hereinafter provided.

(1) Union County. ‑ The court of common pleas for Union County shall be held at Union on the second Monday of February for two weeks, on the first Monday of May for two weeks, on the first Monday of September for two weeks, and on the first Monday of December. The court of general sessions shall be held at Union the fourth Monday of February, the third Monday of May, the third Monday of September and the second Monday of December.

(2) York County. ‑ The court of common pleas for York County shall be held at York the fourth Monday of January, the fifth Monday of January when there is a fifth Monday, the third Monday in March for two weeks, the third Monday in April for two weeks, the first Monday in June for two weeks, the third Monday in July, the first Monday in October for two weeks, the first Monday in November for two weeks, and the fifth Monday in November when there is a fifth Monday. The court of general sessions shall be held at York on the first Monday in January for three weeks, the first Monday in February, the first Monday in March for two weeks, the first Monday in April for two weeks, the fourth Monday in May, the third Monday in June for two weeks, the fourth Monday in July, the fourth Monday in September, the fifth Monday in September when there is a fifth Monday, the third Monday in October for two weeks, the third Monday in November for two weeks, and the third Monday in December.

HISTORY: 1962 Code Section 15‑290; 1966 (54) 2338.

Library References

Courts 153.

Westlaw Topic No. 106.

ARTICLE 9

Special Sessions of Circuit Courts

**SECTION 14‑5‑910.** Special session may be ordered when public interest requires.

Whenever the public interest shall require the holding of a special session of the court of general sessions or the court of common pleas in any county of the State and such fact satisfactorily appears (a) by petition of the solicitor of the judicial circuit in which such county is situate in the case of the court of general sessions or (b) by petition of a majority of the members of the bar of such county in the case of the court of common pleas, such petitions having been first approved by the resident circuit judge or the circuit judge last presiding in such county and duly filed with the clerk of the Supreme Court, a special session of the court of general sessions or common pleas may be ordered for any such county by the Chief Justice of the Supreme Court. The special session of court so ordered shall be held at such time and for such term and such notice of the holding thereof shall be given as may be provided in the order therefor, which shall be transmitted to and filed by the clerk of court of the county.

HISTORY: 1962 Code Section 15‑301; 1952 Code Section 15‑301; 1942 Code Section 69; 1932 Code Section 69; Civ. P. ‘22 Section 66; Civ. P. ‘12 Section 33; Civ. P. ‘02 Section 28; 1873 (15) Section 28; 1878 (16) 395 Section 3; 1884 (18) 770; 1931 (37) 257; 1934 (38) 1204.

CROSS REFERENCES

Appointment of judge to preside at special session ordered under this article, see Sections 14‑5‑160, 14‑5‑170, 14‑5‑190.

Duty of clerk upon appointment of special judge, see Section 14‑5‑220.

Powers of judges holding court in other circuits, see Section 14‑5‑380.

Library References

Courts 153.

Westlaw Topic No. 106.

NOTES OF DECISIONS

In general 1

Constitutional issues 2

1. In general

Power of Chief Justice to order a special term is not absolute. The power to order a special term of court conferred on the Chief Justice of the Supreme Court, or the presiding associate justice thereof, by this section [Code 1962 Section 15‑301] and Code 1962 Sections 15‑216, 15‑302 and 15‑303 is not an absolute power but is controlled by considerations safeguarding the rights and interests of those whose rights and interests will be determined by the special tribunal. State v. Gossett (S.C. 1921) 117 S.C. 76, 108 S.E. 290, 16 A.L.R. 1299. Courts 64(2)

2. Constitutional issues

ARTICLE is constitutional. The power conferred by this article and Code 1962 Sections 15‑216 to 15‑219 is easily sustainable under the provisions of the SC Const, Art 5, Section 6 (now Art 5 Section 15). State v. Gossett (S.C. 1921) 117 S.C. 76, 108 S.E. 290, 16 A.L.R. 1299.

**SECTION 14‑5‑920.** Calling of special session by presiding judge; designation of judge to hold court.

Whenever it shall satisfactorily appear to any circuit judge that the public interest requires the holding of a special session of the court of general sessions or common pleas in any county in which he is at the time presiding over the court then in session such circuit judge may order a special session of the court of general sessions or common pleas to be held for such county at such time and for such term and such notice of the holding thereof shall be given as he may by order provide, which order shall be entered upon the records of the clerk of such court. And when such special session is so ordered only the circuit judge ordering the same shall hold the court, unless he be incapacitated to do so because of his illness or the illness of some member of his immediate family or because of any other reason considered sufficient in the opinion of the Chief Justice of the Supreme Court, and in that event the Chief Justice of the Supreme Court shall order some other disengaged circuit judge or special judge to hold such court.

HISTORY: 1962 Code Section 15‑302; 1952 Code Section 15‑302; 1942 Code Section 69; 1932 Code Section 69; Civ. P. ‘22 Section 66; Civ. P. ‘12 Section 33; Civ. P. ‘02 Section 28; 1873 (15) Section 28; 1878 (16) 395; Section 3; 1884 (18) 770; 1931 (37) 257; 1934 (38) 1204.

Library References

Courts 153.

Westlaw Topic No. 106.

**SECTION 14‑5‑930.** Call of special terms by resident judge; designation of judge to hold court.

The resident judge of each judicial circuit in this State shall have the same right and power at chambers to order special terms of the circuit court, general sessions and common pleas, as is by this article given to presiding judges. Such courts, when ordered, shall be held by the resident judge unless another judge is assigned to hold the same by the Chief Justice as provided in Section 14‑5‑920 for presiding judges, and such courts, when ordered, shall be governed by the same procedure as other courts called pursuant to this article and subject to all its provisions.

HISTORY: 1962 Code Section 15‑303; 1952 Code Section 15‑303; 1942 Code Section 69; 1932 Code Section 69; Civ. P. ‘22 Section 66; Civ. P. ‘12 Section 33; Civ. P. ‘02 Section 28; 1873 (14) Section 28; 1878 (16) 395 Section 3; 1884 (18) 770; 1931 (37) 257; 1934 (38) 1204.

Library References

Courts 153.

Westlaw Topic No. 106.

**SECTION 14‑5‑940.** Matters which may be considered at special session of general sessions; automatic removal of pending cases not tried.

At any special session of the court of general sessions provided for and held under the provisions of this article all cases duly docketed shall be subject to trial and all processes, writs and recognizances of every kind, whether respecting juries, witnesses, bail or otherwise, which relate to the cases to be tried at the special session shall be considered as belonging to such session in the same manner as if they had been issued or taken in reference thereto. And all cases pending for trial at any special session of the court which are not tried or otherwise disposed of shall at the close thereof be considered as of course removed to the next stated term of court.

HISTORY: 1962 Code Section 15‑304; 1952 Code Section 15‑304; 1942 Code Section 69; 1932 Code Section 69; Civ. P. ‘22 Section 66; Civ. P. ‘12 Section 33; Civ. P. ‘02 Section 28; 1873 (14) Section 28; 1878 (16) 395 Section 3; 1884 (18) 770; 1931 (37) 257; 1934 (38) 1204.

Library References

Courts 153.

Westlaw Topic No. 106.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Brief of Amicus Curiae Section 3, in State Trial Court.

**SECTION 14‑5‑950.** Cause will be tried at special session of common pleas only if previously docketed; exception.

At any special session of the court of common pleas provided for and held under the provisions of this article no cause shall be tried unless the same shall have been previously docketed upon some one of the calendars of the last preceding regular term of court; provided, that any cause may be docketed and tried by mutual consent of attorneys of record of such cause.

HISTORY: 1962 Code Section 15‑305; 1952 Code Section 15‑305; 1942 Code Section 69; 1932 Code Section 69; Civ. P. ‘22 Section 66; Civ. P. ‘12 Section 33; Civ. P. ‘02 Section 28; 1873 (14) Section 28; 1878 (16) 395 Section 3; 1884 (18) 770; 1931 (37) 257; 1934 (38) 1204.

CROSS REFERENCES

For general construction of article, see Section 14‑5‑910.

Library References

Courts 153.

Westlaw Topic No. 106.

NOTES OF DECISIONS

In general 1

1. In general

But if no objection is raised any cause may be heard. Where a party without objection participates at an extra term of the circuit court in a trial of a cause not docketed on the calendar of the preceding regular term, he will be deemed to have waived his objection that such cause was not docketed on the calendar of the regular term. Rivers v. Priester (S.C. 1900) 58 S.C. 194, 36 S.E. 543. Courts 37(3)

The intention of the legislature was to limit the jurisdiction of the circuit judge, when presiding at an extra term of the court, to the unfinished business of the court. Simms v. Phillips (S.C. 1896) 46 S.C. 149, 24 S.E. 97.

This section [Code 1962 Section 15‑305] must be regarded as a limitation upon the general powers of circuit judges when only an extra term of court is being held. Simms v. Phillips (S.C. 1896) 46 S.C. 149, 24 S.E. 97.

An order of reference cannot be granted at a special term in any case not docketed at the preceding regular term. Simms v. Phillips (S.C. 1896) 46 S.C. 149, 24 S.E. 97.